

§ 76.606

47 CFR Ch. I (10–1–20 Edition)

the complaint and perform test measurements on § 76.605(b)(10) containing the full number of channels as indicated in § 76.601(b)(2) at the complaining subscriber's terminal. Further, should the problem be found to be system-wide, the Commission may order that the full number of channels as indicated in § 76.601(b)(2) be tested at all required locations for future proof-of-performance tests.

NOTE 5: No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.

[83 FR 7627, Feb. 22, 2018]

§ 76.606 Closed captioning.

(a) The operator of each cable television system shall not take any action to remove or alter closed captioning data contained on line 21 of the vertical blanking interval.

(b) The operator of each cable television system shall deliver intact closed captioning data contained on line 21 of the vertical blanking interval, as it arrives at the headend or from another origination source, to subscriber terminals and (when so delivered to the cable system) in a format that can be recovered and displayed by decoders meeting § 79.101 of this chapter.

[83 FR 7629, Feb. 22, 2018]

§ 76.607 Transmission of commercial advertisements.

(a) *Transmission of commercial advertisements by cable operator or other multichannel video programming distributor.*

(1) *Mandatory compliance with ATSC A/85 RP.* Effective December 13, 2012, cable operators and other multichannel video programming distributors (MVPDs), as defined in 47 U.S.C. 522, must comply with ATSC A/85 RP (incorporated by reference, see § 76.602), insofar as it concerns the transmission of commercial advertisements.

(2) *Commercials inserted by cable operator or other MVPD.* A cable operator or other multichannel video programming distributor that installs, utilizes, and maintains in a commercially reasonable manner the equipment and associated software to comply with ATSC A/85 RP shall be deemed in compliance with respect to locally inserted commercials, which for the purposes of this provision are commercial advertise-

ments added to a programming stream by a cable operator or other MVPD prior to or at the time of transmission to viewers. In order to be considered to have installed, utilized and maintained the equipment and associated software in a commercially reasonable manner, a cable operator or other MVPD must:

(i) Install, maintain and utilize equipment to properly measure the loudness of the content and to ensure that the dialnorm metadata value correctly matches the loudness of the content when encoding the audio into AC-3 for transmitting the content to the consumer;

(ii) Provide records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation;

(iii) Certify that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been corrected promptly upon becoming aware of such a violation; and

(iv) Certify that its own transmission equipment is not at fault for any pattern or trend of complaints.

(3) *Embedded commercials—safe harbor.* With respect to embedded commercials, which, for the purposes of this provision, are those commercial advertisements placed into the programming stream by a third party (i.e., programmer) and passed through by the cable operator or other MVPD to viewers, a cable operator or other MVPD must certify that its own transmission equipment is not at fault for any pattern or trend of complaints, and may demonstrate compliance with the ATSC A/85 RP through one of the following methods:

(i) Relying on a network's or other programmer's certification of compliance with the ATSC A/85 RP with respect to commercial programming, provided that:

(A) The certification is widely available by Web site or other means to any television broadcast station, cable operator, or multichannel video programming distributor that transmits that programming; and