

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Electronic Delivery of MVPD Communications)	MB Docket No. 17-317
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105
)	



COMMENTS

I. INTRODUCTION

ACA Connects—America’s Communications Association (“ACA Connects”) hereby submits comments in response to the Federal Communications Commission (“Commission”) Further Notice of Proposed Rulemaking (“FNPRM”) issued in the above-captioned proceeding.¹ In the FNPRM, the Commission proposes extending its modernized broadcast carriage election rules to “Excluded Entities”, i.e., those multichannel video programming distributors (“MVPDs”) and broadcasters that participate in carriage elections but do not use the COALS or Online Public Inspection

¹ See *Electronic Delivery of MVPD Communications et al.*, MB Docket No. 17-317 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 19-69 (rel. July 11, 2019) (“Report and Order” and “FNPRM”, respectively).

File (“OPIF”) databases.² Under these rules, a broadcaster is generally able to fulfill its carriage election obligations each cycle by posting a single election statement in OPIF and without sending notices to individual MVPDs.³ A broadcaster must send an election notice directly to an MVPD only if its election has changed with respect to that MVPD; in such cases, the broadcaster sends (and the MVPD receives) the notice by email rather than certified mail.⁴ The rules also require broadcasters and MVPDs to post contact information in COALS and/or OPIF for purposes of receiving such notices and resolving any concerns or questions that may arise.

ACA Connects urges the Commission to extend these modernized broadcast carriage election rules to broadcaster Excluded Entities. To accomplish this, ACA Connects encourages to the Commission to collect from these broadcasters and post in a centralized location that is accessible and searchable by MVPDs all information that these broadcasters would otherwise be required to post in OPIF, as explained in more detail below.

II. EXCLUDED ENTITY BROADCASTERS CAN AND SHOULD TRANSITION TO THE MODERNIZED PROCESS FOR BROADCAST CARRIAGE ELECTIONS AS ACA CONNECTS PROPOSES

The Commission is right to propose extending its modernized carriage election rules to broadcasters that do not use OPIF. Now that the Commission has ruled that MVPDs, regardless of size, must accept delivery of election notices via email, it would

² See *id.*, ¶¶ 29-30.

³ See Report and Order, ¶ 12. “To the extent a commercial broadcaster makes different elections with respect to different MVPDs, the election statement included in the public file must reflect those differences.” *Id.*

⁴ A broadcaster must also send a copy of such notice by email to the Commission and attach a copy to its election statement in OPIF. See *id.*, ¶ 13.

unduly “complicate” the elections process to require MVPDs to continue to accept delivery by certified mail from the limited class of broadcasters that are Excluded Entities.⁵

Such broadcasters would face no significant burden in transitioning to the modernized carriage election rules. On the contrary, posting a single election statement online each cycle, while sending election notices by email directly to MVPDs only in the case of an election change,⁶ should be less burdensome for any broadcaster – or, at the very least, not significantly more burdensome – than delivering election notices by certified mail to every MVPD each cycle. As for the requirement to post contact information for carriage election purposes, the Commission has indicated that it does not view this burden to be significant, even for smaller entities.⁷

The only issue to be addressed, then, is how Excluded Entity broadcasters can come into compliance with the modernized carriage election requirements, given that they do not use OPIF. ACA Connects believes the Commission can readily solve this issue by requiring Excluded Entity broadcasters to submit to the Commission their contact information, as well as any election statements or notices they would otherwise be required to post in OPIF. The Commission can then post the submitted information in a centralized location on its website or in a Commission database that is accessible

⁵ See Reply Comments of the National Association of Broadcasters, MB Docket No. 17-317 et al. at 7, n.31 (filed Mar. 26, 2019) (arguing that requiring broadcasters deliver notices to larger MVPDs by email and smaller MVPDs by certified mail in the 2020 carriage elections cycle “would significantly complicate” that cycle). Requiring MVPDs to maintain procedures for accepting some broadcasters’ election notices by email and others’ by certified mail would complicate the elections process to a similar extent.

⁶ We would also expect Excluded Entity broadcasters to send copies of such notices to the Commission and to attach copies to their election statement, as the rules require for other broadcasters.

⁷ See FNPRM, ¶ 30; Report and Order, ¶ 28.

and searchable by MVPDs. The Commission should not permit broadcasters to meet their obligations by posting such information on company websites, as there is no guarantee such websites will exist in the first place, will be easy to locate, or will be reliable sources of up-to-date information.

The approach outlined above dovetails with ACA Connects' proposal that the Commission collect and post contact information from broadcasters that are entitled to receive certain notices from cable operators but do not use OPIF, so that cable operators can deliver such notices to these broadcasters by email.⁸ By following a similar approach in this proceeding, the Commission would ensure that MVPDs are able to obtain carriage election-related information easily and reliably from broadcasters that do not use OPIF, and, as noted above, it would do so without imposing any unreasonable burden on such broadcasters.⁹ Finally, for the sake of convenience, ACA Connects encourages the Commission to post in the same location the contact information it collects from broadcasters for purposes of receiving MVPD notices and any additional information it collects from broadcasters for carriage election purposes.

⁸ See Comments of ACA Connects, MB Docket No. 19-165 et al. at 5-6 (filed Sept. 4, 2019); see also *Electronic Delivery of Notices to Broadcast Stations* et al., MB Docket No. 19-165 et al., Notice of Proposed Rulemaking, FCC 19-68 (rel. July 10, 2019) ("MVPD Notices NPRM").

⁹ To the extent a broadcaster that does not use OPIF is both entitled to receive notices from MVPDs and participates in carriage elections, the Commission should deem the contact information applicable for both purposes as it has proposed to do for broadcasters that do use OPIF. See MVPD Notices NPRM, ¶ 11.

III. CONCLUSION

ACA Connects appreciates the opportunity to participate in this proceeding, and it encourages the Commission to take its comments under consideration.

Respectfully submitted,



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