

businesses through, among other things, the many free resources the Commission provides to potential auction participants. Consistent with the past practices in prior auctions, small entities that are potential participants will have access to detailed educational information and Commission personnel to help guide their participation in Auction 105, which should alleviate any need to hire professionals. More specifically, small entities and other auction participants may seek clarification of or guidance on complying with competitive bidding rules and procedures, reporting requirements, and using the bidding system. Additionally, an FCC Auctions Hotline will provide to small entities one-on-one access to Commission staff for information about the auction process and procedures. Further, the FCC Auctions Technical Support Hotline is another resource that provides technical assistance to applicants, including small business entities, on issues such as access to or navigation within the electronic FCC Form 175 and use of the bidding system. Small entities and other would-be participants will also be provided with various materials on the pre-bidding process in advance of the short-form application filing window, which includes step-by-step instructions on how to complete FCC Form 175. In addition, small entities will have access to the web-based, interactive online tutorials produced by Commission staff to familiarize themselves with auction procedures, filing requirements, bidding procedures, and other matters related to an auction.

229. Various databases and other sources of information, including the Auctions program websites and copies of Commission decisions, are available to the public without charge, providing a low-cost mechanism for small businesses to conduct research prior to and throughout the auction. Prior to and at the close of Auction 105, the Commission will post public notices on the Auctions website, which articulate the procedures and deadlines for the auction. The Commission will make this information easily accessible and without charge to benefit all Auction 105 applicants, including small entities, thereby lowering their administrative costs to comply with the Commission's competitive bidding rules.

230. Eligible bidders will be given an opportunity to become familiar with auction procedures and the bidding system by participating in a mock auction. Eligible bidders will have access to a user guide for the bidding system, bidding file formats, and an

online bidding procedures tutorial in advance of the mock auction. Further, the Commission intends to conduct Auction 105 electronically over the internet using a web-based auction system that eliminates the need for small entities and other bidders to be physically present in a specific location. These mechanisms are made available to facilitate participation in Auction 105 by all eligible bidders and may result in significant cost savings for small entities that use these alternatives. Moreover, the adoption of bidding procedures in advance of the auction, consistent with statutory directive, is designed to ensure that the auction will be administered predictably and fairly for all participants, including small businesses.

231. Another step taken to minimize the economic impact for small entities participating in Auction 105 is the Commission's adoption of bidding credits for small businesses. In accordance with the service rules applicable to the PALs to be offered in Auction 105, bidding credit discounts will be available to eligible small businesses and small business consortiums on the following basis: (1) A bidder with attributed average annual gross revenues that do not exceed \$55 million for the preceding three years is eligible to receive a 15% discount on its winning bid or (2) a bidder with attributed average annual gross revenues that do not exceed \$20 million for the preceding three years is eligible to receive a 25% discount on its winning bid. Eligible applicants can receive only one of the available bidding credits—not both.

232. The total amount of bidding credit discounts that may be awarded to an eligible small business is capped at \$25 million. The Commission adopts a \$10 million cap on the overall amount of bidding credits that any winning small business bidder may apply to winning licenses in counties located within any PEA with a population of 500,000 or less. Based on the technical characteristics of the 3550–3650 MHz band and the Commission's analysis of past auction data, the Commission anticipates that the caps will allow the majority of small businesses to take full advantage of the bidding credit program, thereby lowering the relative costs of participation for small businesses.

233. These procedures for the conduct of Auction 105 constitute the more specific implementation of the competitive bidding rules contemplated by Parts 1 and 96 of the Commission's rules and the underlying rulemaking orders, including the *2015 3.5 GHz Report and Order* and the *2018 3.5 GHz*

Report and Order, and relevant competitive bidding orders, and are fully consistent therewith.

234. *Report to Congress.* The Commission will send a copy of the *Auction 105 Procedures Public Notice*, including the Supplemental FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Auction 105 Procedures Public Notice*, including the Supplemental FRFA to the Chief Counsel for Advocacy of the SBA. A copy of the *Auction 105 Procedures Public Notice*, and Supplemental FRFA (or summaries thereof), will also be published in the **Federal Register**.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–07584 Filed 4–22–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket Nos. 17–317 and 17–105; FCC 20–14; FRS 16589]

In the Matter of Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this final rule document, we adopt proposals to modernize the Commission's carriage election notice rules with respect to certain television broadcast stations and open video systems (OVS) operators. First, we conclude that low power television stations (LPTVs) that qualify for mandatory carriage (qualified LPTVs) must send notices to affected multichannel video programming distributors (MVPDs) by email when changing their carriage election status in the same manner as full power television broadcast stations. However, unlike the requirement for full power television broadcast stations, qualified LPTVs and noncommercial educational (NCE) television translator stations that qualify for must carry (qualified NCE translators) will not be required to make their carriage election statements available for public inspection. Second, we find that MVPDs with carriage-related questions should be able to rely on the contact information provided by qualified LPTV and qualified NCE translator stations in the Commission's Licensing and Management System

(LMS) database. If an MVPD contacts the phone number or email address provided by the station regarding a concern about carriage, those concerns must be addressed as soon as is reasonably possible. Third, we conclude that, in the same manner as cable operators, OVS operators must post contact information for questions regarding carriage election to the Cable Operations and Licensing System (COALS) database, accept email election change notices, and timely respond to carriage-related questions. Through this Order, we continue our efforts to modernize our rules.

DATES: Effective May 26, 2020, except for amendatory instruction 2.b. (§ 76.64(h)(5)) which shall become effective after the Commission publishes a document in the **Federal Register** announcing the relevant effective date.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Media Bureau, Policy Division, 202–418–2154, or email at kim.matthews@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, FCC 20–14, adopted on February 25, 2020 and released on February 25, 2020. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, Room CY–A257, Washington, DC 20554. This document will also be available via ECFS at <http://fjallfoss.fcc.gov/ecfs/>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This *Report and Order* contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public

Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Summary of Report and Order

1. Under the Communications Act of 1934, as amended (the Act), full power television broadcast stations, and certain low power stations and translator stations, are entitled to mandatory carriage of their signal (also known as “must carry”) on any cable system located within their local market. Alternatively, commercial television broadcast stations with carriage rights may elect “retransmission consent.” If the broadcaster and MVPD cannot reach an agreement under which the broadcaster gives consent for retransmission of its signal, the MVPD is prohibited from carrying that signal. Thus, commercial stations are presented with a carriage choice—elect mandatory carriage and forego compensation while assuring carriage, or elect retransmission consent and forego assured carriage while retaining the possibility of compensation for carriage. NCE stations are entitled to must carry but cannot elect retransmission consent.

2. As discussed more fully in the *2019 Report and Order* in this proceeding, 84 FR 45659 (Aug. 30, 2019), when the Commission implemented the statutory provisions establishing the must carry/retransmission consent regime, it adopted a requirement that each commercial television broadcast station provide notice to every cable operator every three years electing either mandatory carriage or retransmission consent. Prior to the adoption of the *2019 Report and Order*, the rules directed each commercial television broadcast station to send a triennial carriage election notice, via certified mail, to each cable system or DBS provider serving its market, and directed each NCE station to send such notices to DBS providers. The notice must state whether the station has elected mandatory carriage or retransmission consent. In addition, the rules generally also require stations to place triennial carriage election statements in their online public inspection files, to the extent they maintain such files.

3. The *2019 Report and Order* generally adopted an approach for modernizing the carriage election notice process that was jointly recommended by the National Association of Broadcasters (NAB) and NCTA—the internet and Television Association

(NCTA). The Commission's revised carriage election rules adopted therein apply to all television broadcast stations with mandatory carriage rights and to all MVPDs responsible for that carriage, except for the relatively few entities that participate in the must carry regime but do not use the online public file or COALS (the Excluded Entities). Under the new carriage election framework, broadcast stations are required to make their carriage elections by uploading those elections to their online public files and by providing a separate electronic notice of those elections to relevant MVPDs only when and if they change their election from the previous election period. Thus, only a limited number of notices will need to be sent to MVPDs and these will be sent via email instead of via paper mail. In addition, the *2019 Report and Order* requires broadcast stations and DBS providers to upload to their online public files both an email address and a phone number for purposes of carriage-related inquiries and requires cable operators to upload the same information in COALS.

4. The rules adopted in the *2019 Report and Order* require use of the Commission's online public inspection file and/or COALS. In the further notice of proposed rulemaking (FNPRM), 84 FR 45703 (Aug. 30, 2019) (*2019 FNPRM*), accompanying the *2019 Report and Order*, we sought comment on whether and how the modernized framework adopted in the *2019 Report and Order* should extend to the Excluded Entities, which are subject to the must carry regime and do not use these Commission databases. Among other things, the Commission asked whether we should require the Excluded Entities to establish and maintain a very narrow public file solely for carriage-related information or require them to post any required information on a company website. We also sought comment on whether we should, alternatively, simply maintain the status quo with respect to the small number of Excluded Entities.

5. The Commission received only three comments in response to the *2019 FNPRM*. All agree that the Excluded Entities should be transitioned to modernized carriage election rules and that any information these entities are required to provide should be posted on a Commission website or Commission-hosted database. All commenters support placing carriage election information in a centralized, Commission-established location rather than on company websites. NCTA contends that many non-Class A LPTV stations and qualified NCE translator

stations do not maintain company websites, and a centralized repository would make it easier for MVPDs to locate carriage information for these entities. All commenters also agree that the Excluded Entities should make public contact information for use for carriage-related communications, and ACA Connects and NCTA also argue that the Excluded Entities should provide any required election statements or notices to the Commission to be made available on a Commission website or database.

6. We adopt a carriage election notification approach for the Excluded Entities that is supported by the record in this proceeding and that is, to the greatest extent possible, consistent with that adopted in the *2019 Report and Order*, while recognizing the specific circumstances of these smaller entities. Specifically, we will require qualified LPTV stations to use the same process as full power television stations to notify MVPDs of any change in carriage election status. Rather than imposing a new public file obligation on qualified LPTV and qualified NCE translator stations, however, we require that they send a single “baseline” notice via email to MVPDs on which they will be seeking or expecting carriage in the 2021–2023 carriage cycle, even if they are making no change in their election status. We disagree with NCTA’s and ACA Connects’ contention that we should require the Excluded Entities to post election statements online each cycle in addition to sending election notices by email to MVPDs in the event of an election change. Qualified LPTV and qualified NCE translator stations are not currently required to make their election notices available to the public. We believe that the better approach is to maintain the status quo rather than impose a new public posting obligation that would increase burdens on these entities. Specifically, we believe that the creation of the proposed new database would impose unnecessary costs and inject unnecessary complexity into the election notice process.

7. In addition, we find that MVPDs with carriage-related questions must be able to rely on the contact information provided by these stations in LMS. We also require both qualified LPTV and qualified NCE translator stations to respond as soon as is reasonably possible to such questions. With respect to OVS, we require that they accept emailed election change notices, post contact information in COALS, and respond as soon as is reasonably possible to carriage election notifications and carriage-related

questions, all in exactly the same manner as cable systems.

8. We agree with NCTA that the carriage election framework adopted in the *2019 Report and Order* “greatly reduces administrative burdens” for stations and MVPDs by, among other changes, only requiring email notice of changed elections and eliminating redundant election notifications and carriage requests. As we stated in the *2019 Report and Order*, our goal is to have a unified approach for carriage election notices, to the extent possible, to best serve the public interest and enhance administrative efficiency. Therefore, today we extend the benefits of the new carriage election framework to the Excluded Entities as well.

9. Consistent with our approach to commercial television broadcast stations, we require a qualified LPTV station that changes its carriage election to send an election change notice to each affected MVPD’s carriage election-specific email address by the carriage election deadline. Such change notices must include, with respect to each station covered by the notice: The station’s call sign, the station’s community of license, the DMA where the station is located, the specific change being made in election status, and an email address and phone number for carriage-related questions. Consistent with our approach with respect to commercial full power broadcast stations, LPTV notices to cable operators need to identify specific cable systems for which a carriage election applies only if the broadcaster changes its election for some systems of the cable operator but not all. In addition, the broadcaster must carbon copy ElectionNotices@FCC.gov, the Commission’s election notice verification email inbox, when sending its carriage elections to MVPDs. As noted in the *2019 Report and Order*, this election notice verification email inbox will provide a verification response to assure broadcasters that the email has been received.

10. As with commercial full power broadcast stations, if an LPTV station does not receive a response verifying receipt of its change notice by the MVPD, or gets an indication that the message was not delivered, it must contact the MVPD via the provided phone number to confirm that the notice was received or arrange for it to be redelivered. If the email is timely and properly sent to the MVPD’s listed address, but the broadcast station receives no verification and is unable to reach anyone at the provided phone number, the notice still will be considered to have been properly

delivered if it was properly copied to the Commission’s election verification notice email inbox.

11. Unlike commercial full power broadcast stations, qualified LPTV stations need not maintain a publicly accessible copy of their carriage election notices or statements. As noted above, LPTV stations are not currently required to maintain a public file with copies of their carriage election notices, and we decline to impose a new obligation in that regard in this proceeding. Rather than imposing a new public file requirement, however, we require all qualified LPTV stations, whether being carried pursuant to must carry or retransmission consent, to send an email notice to all MVPDs that are or will be carrying the station no later than the next carriage election deadline of October 1, 2020. Qualified LPTVs must do so even if they are not changing their carriage status from the current election cycle. This one-time notification requirement for all qualified LPTV stations will give MVPDs baseline information regarding qualified LPTV stations without imposing a new obligation on qualified LPTVs to make their election status publicly available. In addition, requiring a one-time filing of “baseline information” does not impose any greater burden on LPTV or NCE translator stations given that, under the current rules, such entities would be required to file a paper copy of their election notification with each affected MVPD.

12. As noted above, qualified NCE stations may only request mandatory carriage and are not permitted to “elect” retransmission consent on any MVPD. Once an NCE station requests mandatory carriage from an MVPD, the carriage request continues, absent a change in circumstances. We therefore do not require qualified NCE translator stations to send election change notifications. In addition, similar to our approach herein with respect to qualified LPTV stations, rather than impose new public file obligations on qualified NCE translator stations, we require qualified NCE translator stations to provide email notice to all MVPDs that are or will be carrying the translator no later than the next carriage election deadline of October 1, 2020. As with qualified LPTV stations, this one-time notification requirement for all qualified NCE translators will give MVPDs baseline information regarding these entities without imposing a new obligation on them to make their election status publicly available.

13. Each licensed broadcast station, including LPTV and translator stations, has a publicly-accessible entry in LMS

with a field for contact information which can be updated easily. Therefore, in the absence of public file requirements for qualified LPTV and NCE translator stations, we find that MVPDs with carriage-related concerns must be able to rely upon the contact information that the LPTV or NCE translator station provides in LMS. As all licensed stations already have accounts in LMS, we conclude that it is more efficient and less burdensome to simply require that qualified LPTV and NCE translator stations maintain current contact information in LMS so that MVPDs can contact the station regarding carriage-related questions as necessary. We require qualified LPTV stations and encourage qualified NCE translator stations to review and, if necessary, provide contact information or update the existing contact information in LMS no later than July 31, 2020, approximately 60 days prior to the 2020 carriage election deadline, and to ensure that this information remains current thereafter. We will not establish a separate field in LMS for carriage-specific contact information for qualified LPTV and NCE translator stations, but require that these stations ensure that the general contact information in LMS can be used by MVPDs as a point of contact for carriage-related questions. If a station has designated a third party as contact representative or designates multiple types of contact representatives in LMS, questions should be directed to the licensee's email address rather than a contact representative's email address (if different from the licensee's email address). Qualified LPTV and NCE translator stations must ensure that, if an MVPD contacts the station via the licensee's phone or email address contained in LMS, that this carriage-related concern is addressed as soon as is reasonably possible.

14. In the *2019 FNPRM*, we sought comment on applying the revised carriage election framework to MVPDs that do not use COALS or OPIF, identifying OVS specifically. OVS providers, however, are in fact required to establish and maintain an up-to-date COALS account in the same manner as cable operators. We therefore impose requirements on OVS operators that are identical to those in the *2019 Report and Order* for cable operators. OVS operators must provide, via COALS, a specific carriage election email address where broadcasters will send election change notices and a phone number for broadcasters to use in the event of questions as to whether the OVS operator received the station's election

notice. OVS operators must post carriage contact information to COALS by July 31, 2020, and maintain up-to-date contact information at all times thereafter. Each OVS operator must have a single email address and phone number for carriage issues, regardless of the number of markets served. Finally, like other entities subject to the must carry regime, OVS operators are required to respond as soon as is reasonably possible to carriage questions from broadcasters.

15. Again like cable operators, OVS operators must verify receipt of an emailed election change notice, via email sent back to the originating address, as soon as is reasonably possible. As we concluded in the *2019 Report and Order*, this email response will serve only as verification that the notice email was received; it will not constitute a statement that the broadcaster has fully satisfied its notice obligation. Although we anticipate that these verification emails will be generated automatically in most cases, we require only that they be sent as soon as is reasonably possible. A timely and correct notice of a change in election that is sent to the email address provided by the OVS operator, carbon copied to ElectionNotices@FCC.gov, and placed in the station's public file (if the station has a public file obligation) must be honored by the MVPD.

16. We find that requiring OVS operators to use their existing COALS accounts is the most efficient and least burdensome way for OVS operators to publicize their contact information for this purpose. Maintaining contact information for carriage-related questions for all OVS operators in the COALS database will also assist broadcasters and others who need information regarding all MVPDs operating in a given geographic area for carriage purposes. We also note that § 76.1506(l) of our rules provides that the requirements in § 76.64 regarding the delivery of must carry/retransmission consent election notifications apply to OVS operators. The *2019 Report and Order* revised § 76.64 of our rules to require cable operators to provide an up-to-date email address for carriage election notice submissions no later than July 31, 2020, to ensure that the information remains up-to-date, and to respond to questions from broadcasters as soon as is reasonably possible. We conclude that these existing requirements also apply to OVS operators.

17. Similar to our approach in the *2019 Report and Order*, we apply these revised notification requirements to LPTV and NCE translator stations and

OVS operators beginning with the 2020 election for the 2021–2023 carriage election cycle. Therefore, qualified LPTV broadcasters must email required notifications to MVPDs by October 1, 2020. Qualified LPTV and NCE translator stations must also ensure that the contact information for the station in LMS is accurate no later than July 31, 2020, and OVS operators must ensure that their carriage-related contact information in COALS is up to date by the same deadline.

Procedural Matters

A. Final Regulatory Flexibility Analysis

18. As required by the Regulatory Flexibility Act of 1980 (RFA), an Initial Regulatory Flexibility Certification was incorporated into the *2019 FNPRM*. The Federal Communications Commission (Commission) sought written public comment on the proposals in the *2019 FNPRM* including comment on the IRFA. We received no comments specifically directed toward the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, the Report and Order

19. In this *Report and Order*, we adopt proposals to modernize the Commission's carriage election notice rules with respect to certain television broadcast stations and open video system (OVS) operators to enhance administrative efficiency. In so doing, we adopt requirements largely consistent with those recently adopted for full power television broadcast stations. First, we conclude that low power television stations (LPTVs) that qualify for mandatory carriage (qualified LPTVs) must send notices to affected multichannel video programming distributors (MVPDs) by email when changing their carriage election status, in the same manner as full power television broadcast stations. However, unlike the requirement for full power television broadcast stations, qualified LPTVs and noncommercial educational (NCE) television translator stations that qualify for must carry (qualified NCE translators) will not be required to make their carriage election statements available for public inspection. Second, we find that MVPDs with carriage-related questions should be able to rely on the contact information provided by qualified LPTV and qualified NCE translator stations in the Commission's Licensing and Management System (LMS) database. If an MVPD contacts the phone number or email address provided by the station regarding a concern about carriage, those concerns

must be addressed as soon as is reasonably possible. Third, we conclude that, in the same manner as cable operators, OVS operators must post contact information for questions regarding carriage election to the Cable Operations and Licensing System (COALS) database, accept email election change notices, and timely respond to carriage-related questions. Through this Order, we continue our efforts to modernize our rules.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

20. No comments were filed in response to the IRFA.

3. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

21. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

22. *Open Video Services.* Open Video Service (OVS) systems provide subscription services. The open video system framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is “Wired Telecommunications Carriers.” The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. To gauge small business prevalence for the OVS service, the Commission relies on data currently available from the U.S. Census for the year 2012. According to that source, there were 3,117 firms that in 2012 were

Wired Telecommunications Carriers. Of these, 3,059 operated with less than 1,000 employees. Based on this data, the majority of these firms can be considered small. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (“BSPs”) are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, at least some of the OVS operators may qualify as small entities. The Commission further notes that it has certified approximately 45 OVS operators to serve 116 areas, and some of these are currently providing service. Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, DC, and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 44 OVS operators (those remaining) might qualify as small businesses that may be affected by the rules and policies adopted herein.

23. *Television Broadcasting.* This Economic Census category “comprises establishments primarily engaged in broadcasting images together with sound.” These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: those having \$38.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of this number, 656 had annual receipts of \$25 million or less, 25 had annual receipts between \$25 million and \$49,999,999, and 70 had annual receipts of \$50 million or more. Based on this data we therefore estimate that the majority of commercial

television broadcasters are small entities under the applicable SBA size standard.

24. The Commission estimates that there are 1,900 LPTV stations and 3,631 TV translator stations. Given the nature of these services as secondary and in some cases purely a “fill-in” service, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

25. The Commission anticipates that the rule changes adopted in this *Report and Order* will lead to an overall immediate, long-term reduction in reporting, recordkeeping, and other compliance requirements for qualified LPTV stations. Specifically, after the 2020 carriage election, qualified LPTV stations will be required to send carriage election notices only when they are changing their election, will be permitted to send these notices via email, and will no longer need to produce and mail several letters to MVPDs, many of which are duplicative, to ensure that they are received by the MVPD. LPTV and NCE translator stations are not currently required to maintain a public file with a copy of their carriage election notices, and the *Report and Order* does not impose a new obligation in that regard in this proceeding. In the absence of public file requirements for qualified LPTV and NCE translator stations, the *Report and Order* permits MVPDs with carriage-related concerns to rely upon the contact information provided by the LPTV or NCE translator station in LMS. We require qualified LPTV stations, and encourage qualified NCE translator stations, to review and, if necessary, update this contact information in LMS no later than July 31, 2020, approximately 60 days prior to the 2020 carriage election deadline, and ensure that this information remains current thereafter. Qualified LPTV and NCE translator stations must ensure that, if an MVPD contacts the station via the phone or email address they have provided in LMS because it has concerns regarding carriage, the station will respond to those concerns as soon as is reasonably possible.

26. With respect to OVS operators, the *Report and Order* imposes no burdens beyond those imposed in the 2019 *Report and Order*. As with cable operators, broadcasters will send carriage election notifications to OVS operators via email rather than on paper, which will ease the administrative burden of reviewing these notifications, which were

previously in letter form and many of which were previously duplicative. In addition, OVS operators must use COALS for purposes of providing a designated carriage election email address, where broadcasters will send election change notices, and a phone number for broadcasters to use in the event of questions as to whether the OVS operator received the station's election notice. This burden is de minimis and is outweighed by the benefits to OVS operators of the new carriage election framework.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

27. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.”

28. The Commission considered establishing a narrow online public file for the purposes of publicizing carriage-related contact information for qualified LPTV and NCE translator stations, but concluded that requiring qualified LPTV stations and encouraging qualified NCE translator stations to instead update their existing contact information in LMS as necessary would be more efficient and less burdensome both for stations and the Commission. In addition, the Commission concluded that requiring OVS operators use COALS to provide contact information for carriage election purposes, as required by the rules adopted in the 2019 *Report and Order*, is the most efficient and least burdensome way for OVS operators to publicize their contact information. The Commission also considered retaining the paper-based carriage election notice requirements for qualified LPTV and qualified NCE translator stations, as well as OVS operators, but concluded it would be preferable to allow these entities to benefit from the new carriage election framework and that to retain the previous rules for these entities might undermine our goal of reducing regulatory burdens.

29. Overall, the *Report and Order* appropriately balances the interests of

the public against the interests of the entities who are subject to the rules, including those that are small entities.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

30. None.

B. Paperwork Reduction Act Analysis

31. This *Report and Order* contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Congressional Review Act

32. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

33. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 325, 338, 614, 615, 631, 632, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 325, 338, 534, 535, 551, 552, and 573, this *Report and Order* is adopted and will become effective 30 days after publication in the **Federal Register**.

34. *It is further ordered* that part 76 of the Commission's Rules are amended as set forth in the Final Rules effective 30 days after publication in the **Federal Register**, except for § 76.64(h)(5), which contains new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act and shall become effective after the Commission publishes a document in the **Federal Register** announcing such approval and the relevant effective date.

35. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Report and Order*, including the Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

36. *It is further ordered* that the Commission shall send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 76

Cable television, Recording and recordkeeping requirements.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 2. Amend § 76.64 by:

- a. Revising paragraph (h)(1); and
- b. Adding paragraph (h)(5).

The revision and addition read as follows:

§ 76.64 Retransmission consent.

* * * * *

(h)(1) On or before each must carry/retransmission consent election deadline, each television broadcast station shall place a copy of its election statement, and copies of any election change notices applying to the upcoming carriage cycle, in the station's public file if the station is required to maintain a public file.

* * * * *

(5) Low power television stations and non-commercial educational translator stations that are qualified under § 76.55 and retransmitted by a multichannel video programming distributor shall, beginning no later than July 31, 2020, respond as soon as is reasonably possible to messages or calls from multichannel video programming distributors that are received via the email address or phone number the

station provides in the Commission's Licensing and Management System.

* * * * *

[FR Doc. 2020-07759 Filed 4-22-20; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 20-61; DA 20-375; FRS 16638]

Implementation of the Truth-in-Billing Provisions of the Television Viewer Protection Act of 2019

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Media Bureau, Federal Communications Commission (Commission), grants a blanket extension until December 20, 2020, of the effective date of new truth-in-billing requirements in the Television Viewer Protection Act of 2019.

DATES: This order is effective April 23, 2020.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Raelynn Remy of the Media Bureau, Policy Division, at Raelynn.Remy@fcc.gov or (202) 418-2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's Order, DA 20-375, adopted and released on April 3, 2020. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, Room CY-A257, Washington, DC 20554. This document will also be available via ECFS at <https://docs.fcc.gov/public/attachments/DA-20-375A1.doc>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY-B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

1. As the nation tackles the COVID-19 pandemic, multichannel video

programming distributors (MVPDs) and providers of fixed broadband internet access service are among the entities that are integral to the Commission's ongoing, nationwide effort to keep Americans informed and connected during this national emergency. So that these service providers may focus their resources on this critical effort, we provide appropriate flexibility for MVPDs and providers of fixed broadband internet access service to fulfill their obligations under the Television Viewer Protection Act of 2019 (TVPA). Specifically, by this Order, we exercise our discretion under the TVPA to grant a blanket extension until December 20, 2020, of the effective date of new truth-in-billing requirements set forth in section 642 of the Communications Act of 1934, as amended (the Act), as added by section 1004 of the TVPA.

2. Section 642 of the Act requires MVPDs to "give consumers a breakdown of all charges related to the MVPD's video service" before entering into a contract with a consumer for service¹ and also provides consumers 24 hours in which to cancel such service without penalty. In addition, section 642 requires greater transparency in electronic bills and prohibits MVPDs and providers of fixed broadband internet access service from charging consumers for equipment they do not provide. Section 642, as added by the TVPA, becomes effective June 20, 2020, six months after the date of enactment of the TVPA; however, the Commission for "good cause" may extend the effective date by six months. On February 27, 2020, the Media Bureau issued a *Public Notice* seeking comment on whether good cause exists for granting a blanket extension of section 642's effective date by six months, until December 20, 2020.²

3. Pursuant to section 1004(b) of the TVPA, we find that good cause exists for granting a blanket extension of section 642's effective date until December 20, 2020. We note that on March 13, 2020, approximately two weeks after issuance of the *Public Notice* in this proceeding, the President declared a national emergency concerning the COVID-19 pandemic. In view of the evolving and unpredictable nature of the pandemic, and the additional demands it is placing

on MVPDs and providers of fixed broadband internet access service, we find that extending section 642's effective date as specified above is both reasonable and justified and will best serve the public interest. Compliance with the new truth-in-billing requirements in section 642 may require that subject entities make changes to existing billing systems, provide employee training, or take other compliance measures, thereby requiring providers to divert resources away from other consumer demands brought on by the pandemic. Indeed, we note that these service providers are the entities principally responsible for operating and maintaining the infrastructure that Americans increasingly depend on for continued business and interpersonal communications during the national emergency. As such, we believe their foremost obligation at this time is to ensure continuity of service adequate to meet the nation's needs.³ We also conclude, given the indefinite length of time of the national emergency, that the public interest would be served best by affording subject entities until December 20, 2020—the maximum amount of time permitted by the statute—to come into compliance with the requirements of section 642. Indeed, we note that industry commenters claimed that an extension was necessary even if the pandemic had not occurred because six months likely would not have provided ample time for subject entities to take the steps needed to implement the relevant TVPA requirements.

4. Moreover, we find that the present national emergency provides "good cause" under the Administrative Procedure Act (APA) for extending section 642's effective date without prior notice and comment.⁴ As explained above, we have already independently determined that the national emergency establishes good cause under section 1004(b) of the TVPA to issue a blanket extension of

³ We note that many MVPDs and providers of fixed broadband internet access service recently pledged to ensure connectivity for Americans affected by pandemic-related disruptions. In addition, the Commission has taken steps to ensure that certain such providers have adequate capacity to keep Americans connected during the national emergency.

⁴ Given the fact that the TVPA expressly anticipates the need for the Commission to grant an additional six-month extension of the compliance date, we believe our doing so for all affected entities is the most efficient use of both agency and industry resources given that all such entities face demands brought on by the COVID-19 pandemic. Indeed, issuing a blanket extension here achieves the same result as granting multiple extensions to individual providers in a more efficient manner, and thereby avoids delay that could otherwise result in an unnecessary diversion of industry and Commission resources during this national crisis.

¹ Section 642(a) of the Act, as added by section 1004(a) of the TVPA, indicates that information about fees and other charges may be provided by phone, in person, online, or by other reasonable means, and that a copy of this information must be sent to consumers by email, online link, or other reasonably comparable means not later than 24 hours after entering into a contract.

² 85 FR 14869.