

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

In the Matter of)	
)	
Electronic Delivery of Notices to Broadcast Television Stations)	MB Docket No. 19-165
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105
)	



COMMENTS

I. INTRODUCTION & SUMMARY

ACA Connects—America’s Communications Association (“ACA Connects”) hereby submits comments in response to the Federal Communications Commission (“Commission”) Notice of Proposed Rulemaking (“NPRM”) issued in the above-captioned proceeding.¹ In the NPRM, the Commission proposes adoption of ACA Connects’ recommendation that email replace certified mail as the means by which cable operators provide certain required notices to television broadcast stations.² As ACA Connects has explained, allowing cable operators to deliver these notices to

¹ See *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).

² See Letter From Mary Lovejoy, American Cable Association, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 17-317 et al. (filed Oct. 16, 2018).

broadcasters by email would reduce burdens, especially for the smaller operators ACA Connects represents, without imposing any offsetting harm on broadcasters. The Commission recently decided to move broadcast carriage elections to an email-based process, and now the time has come to “make comparable changes” to the delivery of required notices from cable operators to broadcasters.³ ACA Connects encourages the Commission to adopt these changes without delay.

II. THE COMMISSION SHOULD ADOPT ELECTRONIC DELIVERY OF REQUIRED NOTICES FROM CABLE OPERATORS TO BROADCAST STATIONS

ACA Connects applauds the Commission for proposing in the NPRM to allow cable operators to deliver required notices to broadcasters by email.⁴ This is the next logical step for the Commission in its media modernization initiative, which has included a series of decisions allowing for various notices and other communications to be transitioned from paper to electronic delivery.⁵ In last year’s order allowing cable operators to deliver certain subscriber notices by email, the Commission noted that switching from paper to electronic delivery of notices can reduce administrative burdens

³ See *id* at 2.

⁴ The proposal would extend to notices that are required under Section 76.64(k) and Part 76 Subpart T of the Commission’s rules. See NPRM, ¶¶ 8.

⁵ See *National Cable & Telecommunications Association and American Cable Association, Petition for Declaratory Ruling*, MB Docket No. 16-126, Declaratory Ruling, 32 FCC Rcd 5269, ¶¶ 6 (2017) (“Annual Notices Declaratory Ruling”); *Electronic Delivery of MVPD Communications et al.*, MB Docket No. 17-317 et al., Report and Order and Further Notice of Proposed Rulemaking, 33 FCC Rcd 11518 (2018) (“Subscriber Notices Order and FNPRM”); *Electronic Delivery of MVPD Communications et al.*, MB Docket No. 17-317 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 19-68 (rel. July 11, 2019) (“Carriage Elections Order and FNPRM”).

and environmental waste, and that consumers increasingly prefer to receive information in electronic form.⁶

The Commission applied similar logic in its decision, adopted the same day as the NPRM, to streamline significantly the broadcast carriage elections process.⁷ Under that decision, broadcasters are relieved from delivering election notices triennially to each cable provider by certified email. Going forward, broadcasters will send election notices to cable operators via an email address that the operator posts in the Cable Operations and Licensing System (“COALS”) database, and broadcasters will be required to send these notices only when their election changes. In adopting this streamlined framework, the Commission characterized it as part of its efforts “to modernize regulations and reduce unnecessary requirements that can impede competition and innovation in the media marketplace.”⁸

The same reasoning supports the Commission’s tentative conclusion in the NPRM that providing for email delivery of required notices from cable operators to broadcasters would serve the public interest.⁹ As the Commission explains, “modernizing [its] rules to require electronic delivery of certain written notices” in the manner the NPRM proposes “is consistent with how companies do business in the marketplace and will result in quicker, more effective communication of necessary

⁶ See Subscriber Notices Order, ¶¶ 7-8; see also Annual Notices Declaratory Ruling, ¶ 6.

⁷ See Carriage Elections Order and FNPRM.

⁸ See *id.*, ¶ 1.

⁹ See NPRM, ¶ 9.

information.”¹⁰ Indeed, broadcasters supported the Commission’s decision that they use email to deliver carriage election notices to cable operators¹¹; it only makes sense to use the same method of exchange for the various notices that cable operators must provide to broadcasters.

Furthermore, the specific mechanism proposed in the NPRM to ensure effective delivery of notices via email would impose no new obligation on those broadcasters that maintain online public files. In the Carriage Elections Order, the Commission required that such broadcasters post an email address to their public file by July 31, 2020, the date when the Commission proposes that electronic delivery of notices from cable operators to broadcasters would go into effect.¹² Because the Commission proposes that cable operators deliver such notices to the same email address, the transition from paper to electronic delivery of required notices should be seamless for these broadcasters. Furthermore, cable operators and broadcasters are both required under the Carriage Elections Order to post a phone number in addition to an email address. The Commission should make clear that these phone numbers would also be used in the event that a cable operator or broadcaster has a question for the other regarding the delivery or receipt of a required notice covered by this NPRM.

¹⁰ NPRM, ¶ 7. ACA Connects also agrees with the Commission that it possesses ample legal authority to adopt the rule changes proposed in the NPRM. See NPRM, ¶ 10.

¹¹ See, e.g., Reply Comments of the National Association of Broadcasters (“NAB”), MB Docket No. 17-317 et al. (filed Mar. 26, 2019) (“NAB Reply”).

¹² See NPRM, ¶ 11.

III. EMAIL SHOULD BE THE MEANS BY WHICH CABLE OPERATORS DELIVER REQUIRED NOTICES TO ALL BROADCAST STATIONS

The Commission asks whether email delivery of required notices should apply with respect to broadcasters that are not required to maintain a public file, including non-Class-A low power television (“LPTV”) stations and qualified noncommercial educational (“NCE”) translator stations.¹³ The answer is yes. Exempting some broadcasters from electronic delivery of required notices would substantially negate the benefits of adopting the proposal in the first place. Under such an approach, cable operators would need to maintain two different delivery methods for providing notices to broadcast stations. Such a regime would introduce unnecessary complexity and costs for cable operators, particularly smaller operators with limited resources.¹⁴

Broadcasters that lack a public file but that are entitled to receive required notices from cable operators should be required to provide not only an email address, but also a phone number that can be used for questions regarding such notices. This would ensure that all participants in the exchange of required notices are able to communicate effectively and to resolve quickly any issues that may arise.

There is no reason to believe that providing minimal contact information such as an email address and phone number would be any more burdensome for non-Class-A LPTV or qualified NCE translator stations than it will be for the smallest cable operators under the new carriage elections framework. In adopting this framework, the Commission shared its view that “it will not take any entity,” even the smallest cable

¹³ See *id.*, ¶ 12.

¹⁴ For these same reasons, the Commission should not permit other broadcast stations to “opt out” of email delivery of required notices. See NPRM, ¶ 13.

operator, “a great amount of time” to post the required contact information.¹⁵ Similarly, broadcasters of any size should have no trouble providing an email address and phone number within a few months. Per the NAB, it would be “absurd” to suggest otherwise.¹⁶

Those broadcast stations that lack a public file could be required simply to provide their email addresses and phone number directly to the Commission, which is just as simple as posting this information to a public file. The Commission can then make those email addresses and phone numbers available to cable operators by posting them in a searchable manner on its website or in an existing Commission database. By following such an approach, the Commission can ensure that cable operators are able to identify easily and reliably the email address and phone number each broadcaster has chosen to receive notices. Conversely, the Commission should not permit any broadcaster to designate an email address and phone number for receipt of notices from cable operators by posting this information on a company website. There is no guarantee that all broadcast stations – especially those that lack online public files – will have public-facing websites in the first place, let alone that these websites would always be easy to find and reliable. Regardless of the class of broadcaster at issue, a cable operator should always be able to consult an official Commission resource – whether that is the online public file, another database, or the Commission website – to be able to determine with confidence the email address and phone number that the broadcaster has chosen to receive required notices.

¹⁵ See Carriage Elections Order and FNPRM, ¶ 28. In the FNPRM, the Commission similarly observes that MVPDs and broadcasters that participate in carriage elections but lack online public files “would have no difficulty establishing an e-mail address and phone number to use for carriage-related communications.” *Id.*, ¶ 30. ACA Connects agrees.

¹⁶ See NAB Reply at 8 (“[I]t is absurd to think that businesses, even smaller ones, would not be able to add an email address and phone number to a single electronic file within a few months.”).

IV. CONCLUSION

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

Respectfully submitted,



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September 4, 2019