

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

In re: Cable Subscribership Survey)
)
For the Collection of Information)
Pursuant to Section 612(g) of the)
Communications Act)
)
To: The Commission)

MB Docket No. 07-269

COMMENTS



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February 17, 2009

I. Introduction

The American Cable Association submits these comments to stress the burden that the Commission's proposed 70/70 reporting requirements will have on small and medium-sized operators, and to suggest alternatives means of collecting and submitting this data.¹ The Commission's proposed reporting requirements – especially those requiring historical data for subscribers served and homes passed, and an accounting of homes receiving services under a bulk rate – will impose significant financial and administrative burdens on ACA's members who serve smaller markets and rural areas. Accordingly, the Commission should carefully consider whether there are less onerous ways for small and medium-sized cable operators to provide the data. To that end, ACA suggests the following revisions to the 70/70 reporting requirements:

- (i) The Commission should permit systems with 20,000 or less subscribers to provide current data on customers served and homes passed, and best estimates on homes passed when necessary.
- (ii) The Commission should exempt systems with 20,000 or less subscribers from collecting data on unoccupied homes and bulk units.

American Cable Association. ACA represents more than 900 small and medium-sized cable companies that serve about 7 million cable subscribers, primarily in smaller markets and rural areas. ACA member systems are located in all 50 states. The companies range from family-run cable businesses serving a single town to multiple system operators with small systems in small markets. More than half of ACA's members serve fewer than 1,000 subscribers.

¹ *Media Bureau Seeks Comment on a Cable Subscribers Survey for the Collection of Information Pursuant to Section 612(g) of the Communications Act*, MB Docket No. 07-269 (rel. Jan. 16, 2009).

II. The Commission should permit systems with 20,000 or less subscribers to provide *current data* on customers served and homes passed, and *best estimates* on homes passed when necessary.

Many small and medium-sized cable operators do not maintain historical data on customers served and homes passed. As such, providing this data from 2006 and 2007, as requested by the Commission, will either be impossible or significantly burdensome. Therefore, as an alternative, the Commission should permit systems with 20,000 subscribers or less to provide *current data* on customers served and homes passed, and *best estimates* on homes passed when necessary.

An overwhelming majority of ACA members rely on third parties for their billing system software. Generally, these systems do not retain subscriber data from prior years. While some operators may possess historical aggregate subscriber numbers,² most will not have the historical information broken down in the detail that the Commission desires. Because of this, to fulfill the Commission's mandate would require ACA members to set aside significant financial and administrative resources. As an alternative, ACA believes permitting smaller operators to provide the number of current subscribers would provide an adequate substitute for the Commission's purpose, while not placing such a burden on small operators.

Moreover, many ACA members will also be unable to provide homes passed data. ACA members report that accurate homes passed data is often only available if calculated during system upgrades or when provided by a predecessor owner, and is unlikely to be available for the specific week in 2006

² Cable operators provide *total* subscriber counts monthly to programmers for license fees, semi-annually to the Copyright Office for royalties, and annually to the Commission for regulatory fees.

and 2007 being requested. Even to gather current data, a smaller operator must pay for a walk-out survey. Because ACA members in smaller markets and rural areas serve far fewer homes per mile than larger MVPDs, the cost and burden of collecting this information would be substantial. The Commission should take into account the significant burdens of providing historical homes passed data for smaller operators, and allow these providers to report current data where available, and make a good faith estimate based on the last survey or the operator's general knowledge when the data is not available.

In short, the collection of the above information by small and medium-sized cable operators would be unfeasible for some and costly for others. For these reasons, ACA suggests the Commission offer an alternative reporting method for those small and medium-sized cable operators that do not maintain this information in a database or in the format chosen by the Commission. The Commission should adopt ACA's revisions.

III. The Commission should exempt systems with 20,000 or less subscribers from collecting data on unoccupied homes and bulk units.

ACA members also report that the costs and burdens to determine a historical number of occupied units in a bulk billed MDU and a historical number of occupied households are impossible for some operators, and substantial for the rest. For these requirements, ACA suggests the Commission exempt systems with 20,000 subscribers or less from providing this data.

In general, operators and programmers rely on an industry accepted formula to arrive at an equivalent subscriber number for bulk billed accounts. Because of this, most small and medium-sized operators do not track the number

of occupied units in each building. Moreover, many owners also are unable to ascertain whether homes passed are occupied, especially those operators who serve low-density areas. Cable systems with 20,000 subscribers or less are especially unlikely to have any historical information on both unoccupied homes passed and bulk units. For these reasons, the Commission should exempt these systems.

If the Commission does not exempt these systems, ACA suggests that the Commission collect this data through a random statistical sample, similar to how the Commission currently collects Form 325 data from small operators.³ This would alleviate the burden on the industry to provide data it likely does not have.

The Commission has previously found that “[s]ampling is a way of providing accurate information while at the same time reducing the burden of compliance for the industry and processing costs for the Commission.”⁴ Here, collecting the data through a statistical sample will serve the same goals – providing accurate information while reducing the cost of compliance for the industry, especially smaller operators. This, in turn, will allow smaller operators to use their limited administrative resources to compile total subscriber data and best estimates of homes passed.

³ For Form 325, the Commission only randomly samples cable systems with less than 20,000 subscribers.

⁴ *In the Matter of 1998 Biennial Regulatory Review – “Annual Report of Cable Television Systems,” Form 325, Filed Pursuant to Section 76.403 of the Commission’s Rules, Report and Order*, 14 FCC Rcd 4720, ¶ 12 (1999).

IV. Conclusion

The Commission's proposed reporting requirements – especially those requiring historical data for customers served, homes passed, and bulk rate units occupied – is impossible for some, and will significantly burden other ACA members who serve smaller markets and rural areas. Accordingly, ACA suggests that the Commission permit systems with 20,000 or less subscribers to provide current data on customers served and homes passed, and for those who do not maintain homes passed data to provide a best estimate. Moreover, the Commission should exempt these same small systems from collecting data on unoccupied homes and bulk units.

Respectfully submitted,

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