

(h) A licensee or permittee may make no modifications on a subscription encoding system that would alter the characteristics of the transmitted aural or visual signal from those specified in the application for advance approval. A licensee or permittee of a station replacing its encoding system must perform the measurements required by paragraph (c) of this section. A TV broadcast station licensee or permittee must also send a letter advising the FCC of the new system being used as required by § 73.642(b) of this chapter.

(i) The station licensee is fully responsible for all technical operations of the station during transmissions of encoded subscription programming, regardless of the supplier of the encoding equipment or subscription program service.

NOTE: Stations transmitting encoded subscription programming prior to October 1, 1983, must comply with all technical and operating requirements of this Section no later than April 1, 1984. Stations not having the information to comply with this Section must obtain such information from the manufacturer of the encoding system being used, and if necessary, by measurements of the station's transmission system.

(j) Upon request by an authorized representative of the FCC, the licensee of a TV station transmitting encoded programming must make available a receiving decoder to the Commission to carry out its regulatory responsibilities.

[48 FR 56392, Dec. 21, 1983, as amended at 57 FR 48333, Oct. 23, 1992; 66 FR 58982, Nov. 26, 2001]

**§ 73.646 Telecommunications Service on the Vertical Blanking Interval and in the Visual Signal.**

(a) Telecommunications services permitted on the vertical blanking interval (VBI) and in the visual signal include the transmission of data, processed information, or any other communication in either a digital or analog mode.

(b) Telecommunications service on the VBI and in the visual signal is of an ancillary nature and as such is an elective, subsidiary activity. No service guidelines, limitations, or performance standards are applied to it. The

kinds of service that may be provided include, but are not limited to, teletext, paging, computer software and bulk data distribution, and aural messages. Such services may be provided on a broadcast, point-to-point, or point to multipoint basis.

(c) Telecommunications services that are common carrier in nature are subject to common carrier regulation. Licensees operating such services are required to apply to the Commission for the appropriate authorization and to comply with all policies and rules applicable to the particular service.

(d) Television licensees are authorized to lease their VBI and visual signal telecommunications facilities to outside parties. In all arrangements entered into with outside parties affecting telecommunications service operation, the licensee or permittee must retain control over all material transmitted in a broadcast mode via the station's facilities, with the right to reject any material that it deems inappropriate or undesirable. The licensee or permittee is also responsible for all aspects of technical operation involving such telecommunications services.

(e) The grant or renewal of a TV station license or permit will not be furthered or promoted by proposed or past VBI or visual signal telecommunications service operation; the licensee must establish that its broadcast operation serves the public interest wholly apart from such telecommunications service activities. (Violation of rules applicable to VBI and visual signal telecommunications services could, of course, reflect on a licensee's qualifications to hold its license or permit.)

(f) TV broadcast stations are authorized to transmit VBI and visual telecommunications service signals during any time period, including portions of the day when normal programming is not broadcast. Such transmissions must be in accordance with the technical provisions of § 73.682.

[50 FR 4663, Feb. 1, 1985, as amended at 50 FR 9035, Mar. 6, 1985; 61 FR 36304, July 10, 1996]

**§ 73.653 Operation of TV aural and visual transmitters.**

The aural and visual transmitters may be operated independently of each other or, if operated simultaneously,

may be used with different and unrelated program material.

[54 FR 9806, Mar. 8, 1989]

**§ 73.658 Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.**

(a) *Exclusive affiliation of station.* No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization under which the station is prevented or hindered from, or penalized for, broadcasting the programs of any other network organization. (The term “network organization” as used in this section includes national and regional network organizations. See ch. VII, J, of Report on Chain Broadcasting.)

(b) *Territorial exclusivity.* No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which prevents or hinders another broadcast station located in the same community from broadcasting the network’s programs not taken by the former station, or which prevents or hinders another broadcast station located in a different community from broadcasting any program of the network organization. This section shall not be construed to prohibit any contract, arrangement, or understanding between a station and a network organization pursuant to which the station is granted the first call in its community upon the programs of the network organization. As employed in this paragraph, the term “community” is defined as the community specified in the instrument of authorization as the location of the station.

(c) [Reserved]

(d) *Station commitment of broadcast time.* No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with any network organization, which provides for optioning of the station’s time to the network organization, or which has the same restraining effect as time optioning. As used in this section, time optioning is any contract, arrangement, or understanding, express or im-

plied, between a station and a network organization which prevents or hinders the station from scheduling programs before the network agrees to utilize the time during which such programs are scheduled, or which requires the station to clear time already scheduled when the network organization seeks to utilize the time.

(e) *Right to reject programs.* No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which, with respect to programs offered or already contracted for pursuant to an affiliation contract, prevents or hinders the station from:

(1) Rejecting or refusing network programs which the station reasonably believes to be unsatisfactory or unsuitable or contrary to the public interest, or

(2) Substituting a program which, in the station’s opinion, is of greater local or national importance.

(f) [Reserved]

(g) *Dual network operation.* A television broadcast station may affiliate with a person or entity that maintains two or more networks of television broadcast stations *unless* such dual or multiple networks are composed of two or more persons or entities that, on February 8, 1996, were “networks” as defined in § 73.3613(a)(1) of the Commission’s regulations (that is, ABC, CBS, Fox, and NBC).

(h) *Control by networks of station rates.* No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization under which the station is prevented or hindered from, or penalized for, fixing or altering its rates for the sale of broadcast time for other than the network’s programs.

(i) No license shall be granted to a television broadcast station which is represented for the sale of non-network time by a network organization or by an organization directly or indirectly controlled by or under common control with a network organization, if the station has any contract, arrangement or understanding, express or implied, which provides for the affiliation of the