

## Federal Communications Commission

## § 76.1208

by the cable operator, or four simultaneous channels, whichever is greater;

(5) Separately disclose to consumers in a conspicuous manner with written information provided to customers in accordance with § 76.1602, with written or oral information at consumer request, and on Web sites or billing inserts;

(i) Any assessed fees for the rental of single and additional CableCARDS and the rental of operator-supplied navigation devices; and,

(ii) If such provider includes equipment in the price of a bundled offer of one or more services, the fees reasonably allocable to:

(A) The rental of single and additional CableCARDS; and

(B) The rental of operator-supplied navigation devices.

(1) CableCARD rental fees shall be priced uniformly throughout a cable system by such provider without regard to the intended use in operator-supplied or consumer-owned equipment. No service fee shall be imposed on a subscriber for support of a subscriber-provided device that is not assessed on subscriber use of an operator-provided device.

(2) For any bundled offer combining service and an operator-supplied navigation device into a single fee, including any bundled offer providing a discount for the purchase of multiple services, such provider shall make such offer available without discrimination to any customer that owns a navigation device, and, to the extent the customer uses such navigation device in lieu of the operator-supplied equipment included in that bundled offer, shall further offer such customer a discount from such offer equal to an amount not less than the monthly rental fee reasonably allocable to the lease of the operator-supplied navigation device included with that offer. For purposes of this section, in determining what is "reasonably allocable," the Commission will consider in its evaluation whether the allocation is consistent with one or more of the following factors:

(i) An allocation determination approved by a local, state, or Federal government entity;

(ii) The monthly lease fee as stated on the cable system rate card for the navigation device when offered by the cable operator separately from a bundled offer; and

(iii) The actual cost of the navigation device amortized over a period of no more than 60 months.

(c) A cable operator shall not provide misleading information regarding the ability of navigation devices to access switched digital channels.

[76 FR 40279, July 8, 2011]

### § 76.1206 Equipment sale or lease charge subsidy prohibition.

Multichannel video programming distributors offering navigation devices subject to the provisions of § 76.923 for sale or lease directly to subscribers, shall adhere to the standards reflected therein relating to rates for equipment and installation and shall separately state the charges to consumers for such services and equipment.

### § 76.1207 Waivers.

The Commission may waive a regulation adopted under this subpart for a limited time, upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider that such a waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. Such waiver requests should be made pursuant to § 76.7. Such a waiver shall be effective for all service providers and products in the category in which the waiver is granted.

### § 76.1208 Sunset of regulations.

The regulations adopted under this subpart shall cease to apply when the Commission determines that (1) the market for multichannel video distributors is fully competitive; (2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and (3) elimination of the regulations would promote competition and the public interest. Any

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interested party may petition the Commission for such a determination.

**§ 76.1209 Theft of service.**

Nothing in this subpart shall be construed to authorize or justify any use, manufacture, or importation of equipment that would violate 47 U.S.C. 553 or any other provision of law intended to preclude the unauthorized reception of multichannel video programming service.

**§ 76.1210 Effect on other rules.**

Nothing in this subpart affects § 64.702(d) of the Commission's regulations or other Commission regulations governing interconnection and competitive provision of customer premises equipment used in connection with basic common carrier communications services.

**Subpart Q—Regulation of Carriage Agreements**

SOURCE: 58 FR 60395, Nov. 16, 1993, unless otherwise noted.

**§ 76.1300 Definitions.**

As used in this subpart:

(a) *Affiliated.* For purposes of this subpart, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(b) *Attributable interest.* The term "attributable interest" shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

(c) *Buying groups.* The term "buying group" or "agent," for purposes of the definition of a multichannel video programming distributor set forth in paragraph (e) of this section, means an entity representing the interests of more than one entity distributing multichannel video programming that:

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(1) Agrees to be financially liable for any fees due pursuant to a satellite cable programming, or satellite broadcast programming, contract which it signs as a contracting party as a representative of its members or whose members, as contracting parties, agree to joint and several liability; and

(2) Agrees to uniform billing and standardized contract provisions for individual members; and

(3) Agrees either collectively or individually on reasonable technical quality standards for the individual members of the group.

(d) *Multichannel video programming distributor.* The term "multichannel video programming distributor" means an entity engaged in the business of making available for purchase, by subscribers or customers, multiple channels of video programming. Such entities include, but are not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, and a satellite master antenna television system operator, as well as buying groups or agents of all such entities.

(e) *Video programming vendor.* The term "video programming vendor" means a person engaged in the production, creation, or wholesale distribution of video programming for sale.

[58 FR 60395, Nov. 16, 1993, as amended at 64 FR 67197, Dec. 1, 1999; 69 FR 72046, Dec. 10, 2004]

**§ 76.1301 Prohibited practices.**

(a) *Financial interest.* No cable operator or other multichannel video programming distributor shall require a financial interest in any program service as a condition for carriage on one or more of such operator's/provider's systems.

(b) *Exclusive rights.* No cable operator or other multichannel video programming distributor shall coerce any video programming vendor to provide, or retaliate against such a vendor for failing to provide, exclusive rights against any other multichannel video programming distributor as a condition for carriage on a system.

(c) *Discrimination.* No multichannel video programming distributor shall engage in conduct the effect of which is