

## § 76.120

## 47 CFR Ch. I (10–1–16 Edition)

station. Programs substituted pursuant to this section may be carried to their completion.

[65 FR 68101, Nov. 14, 2000, as amended at 79 FR 63562, Oct. 24, 2014]

### § 76.120 Network non-duplication protection and syndicated exclusivity rules for satellite carriers: Definitions.

For purposes of §§ 76.122–76.130, the following definitions apply:

(a) *Satellite carrier*. The term “satellite carrier” means an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing.

(b) *Nationally distributed superstation*. The term “nationally distributed superstation” means a television broadcast station, licensed by the Commission, that—

(1) Is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

(2) On May 1, 1991, was retransmitted by a satellite carrier and was not a network station at that time; and

(3) Was, as of July 1, 1998, retransmitted by a satellite carrier under the statutory license of Section 119 of title 17, United States Code.

(c) *Television network*. The term “television network” means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

(d) *Network station*. The term “network station” means—

(1) A television broadcast station, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States which offer an interconnected program service on a regular basis for 15 or more hours per week to at least 25 of its affiliated television licensees in 10 or more States; or

(2) A noncommercial educational broadcast station (as defined in Section 397 of the Communications Act of 1934); except that the term does not include the signal of the Alaska Rural Communications Service, or any successor entity to that service.

(e) *Zone of protection*. The term “zone of protection” means—

(1) With respect to network non-duplication, the zone of protection within which the television station is entitled to enforce network non-duplication protection shall be that geographic area agreed upon between the network and the television station. In no event shall such rights exceed the area within which the television station may acquire broadcast territorial exclusivity rights as defined in § 73.658(m) of this Chapter, except that small market television stations shall be entitled to a secondary protection zone of 32.2 additional kilometers (20 additional miles). To the extent rights are obtained for any hyphenated market named in § 76.51, such rights shall not exceed those permitted under § 73.658(m) of this Chapter for each named community in that market.

(2) With respect to each syndicated program, the zone of protection within which the television station is entitled to enforce syndicated exclusivity rights shall be that geographic area agreed upon between the non-network program supplier, producer or distributor and the television station. In no event shall such zone exceed the area within which the television station has acquired broadcast territorial exclusivity rights as defined in

§ 73.658(m) of this Chapter. To the extent rights are obtained for any hyphenated market named in § 76.51, such rights shall not exceed those permitted under § 73.658(m) of this chapter for each named community in that market.

[65 FR 68101, Nov. 14, 2000, as amended at 79 FR 63562, Oct. 24, 2014]

**§ 76.122 Satellite network non-duplication.**

(a) Upon receiving notification pursuant to paragraph (c) of this section, a satellite carrier shall not deliver, to subscribers within zip code areas located in whole or in part within the zone of protection of a commercial television station licensed by the Commission, a program carried on a nationally distributed superstation or on a station carried pursuant to § 76.54 of this chapter when the network non-duplication rights to such program are held by the commercial television station providing notice, except as provided in paragraphs (j), (k) or (l) of this section.

(b) Television broadcast station licensees shall be entitled to exercise non-duplication rights pursuant to § 76.122 in accordance with the contractual provisions of the network-affiliate agreement, and as provided in § 76.124.

(c) In order to exercise non-duplication rights pursuant to § 76.122, television stations shall notify each satellite carrier of the non-duplication sought in accordance with the requirements of this section. Non-duplication protection notices shall include the following information:

(1) The name and address of the party requesting non-duplication protection and the television broadcast station holding the non-duplication right;

(2) Where the agreement between network and affiliate so identifies, the name of the program or series (including specific episodes where necessary) for which protection is sought;

(3) The dates on which protection is to begin and end;

(4) The name of the network (or networks) which has (or have) extended non-duplication protection to the broadcaster;

(5) The time periods by time of day (local time) and by network (if more

than one) for each day of the week that the broadcaster will be broadcasting programs from that network (or networks) and for which non-duplication protection is requested;

(6) The duration and extent (e.g., simultaneous, same-day, seven-day, etc.) of the non-duplication protection which has been agreed upon by the network (or networks) and the broadcaster; and

(7) A list of the U.S. postal zip code(s) that encompass the zone of protection under these rules.

(d) Broadcasters entering into contracts providing for network non-duplication protection shall notify affected satellite carriers within 60 calendar days of the signing of such a contract; provided, however, that for such contracts signed before November 29, 2000, the broadcaster may provide notice on or before January 31, 2001, or with respect to pre-November 29, 2000 contracts that require amendment in order to invoke the provisions of these rules, notification may be given within sixty calendar days of the signing of such amendment.

(e) Except as otherwise provided in this section, a broadcaster shall be entitled to non-duplication protection beginning on the later of:

(1) The date specified in its notice to the satellite carrier; or

(2) The first day of the calendar week (Sunday through Saturday) that begins 60 days after the satellite carrier receives notice from the broadcaster; Provided, however, that with respect to notifications given pursuant to this section prior to June 1, 2001, a satellite carrier is not required to provide non-duplication protection until 120 days after the satellite carrier receives such notification.

(f) A broadcaster shall provide the following information to the satellite carrier under the following circumstances:

(1) In the event the protection specified in the notices described in paragraph (c) of this section has been limited or ended prior to the time specified in the notice, or in the event a time period, as identified to the satellite carrier in a notice pursuant to paragraph (c) of this section, for which a broadcaster has obtained protection