

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

In the Matter of )
)
Implementation of Section 3 of the Cable )
Television Consumer Protection and Competition ) MM Docket No. 92-266
Act of 1992 )
)
Statistical Report on Average Rates for Basic )
Service, Cable Programming Service and )
Equipment )

ORDER

Adopted: January 13, 2004

Released: January 14, 2004

Responses Due: February 27, 2004

By the Chief, Media Bureau

I. INTRODUCTION

1. Section 623(k) of the Communications Act, as amended by the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), requires the Commission to publish annually a statistical report on average rates for basic cable service, cable programming service, and equipment. The Act also requires the Commission to compare the average rates of cable operators subject to effective competition with those of operators not subject to effective competition.

1 Section 623(k) was adopted as Section 3(k) of the 1992 Cable Act, Pub. L. No. 102-385, 106 Stat. 1460, codified at 47 U.S.C. § 543(k).

2 47 U.S.C. § 543(k). The 1992 Cable Act defines basic cable service as that tier of service that includes the retransmission of local television broadcast signals. See 47 U.S.C. § 543(b)(7). Cable programming service is defined as any video programming other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis. See 47 U.S.C. § 543(k)(1)(2). Equipment refers to a converter box, remote control, and other equipment necessary to access programming. See 47 U.S.C. § 543(b)(3).

3 Effective competition exists where the Commission has found that a multichannel video programming distributor ("MVPD") meets one of four tests within its franchise area: (1) fewer than 30% of households subscribe to the service of the cable system (herein referred to as the "low penetration test"); (2) at least two MVPDs serve 50% or more of households and at least 15% of those households take service other than from the largest MVPD (the "overbuild test"); (3) a municipal MVPD offers service to at least 50% of households (the "municipal test"); (4) a local exchange carrier ("LEC") or its affiliate (or any MVPD using the facilities of the LEC or its affiliate) offers video programming service (other than direct broadcast satellite ("DBS") service) comparable to the service of an unaffiliated MVPD (the "LEC test"). See 47 U.S.C. § 543(1)(1)(A-D).

2. To implement the requirements of Section 623(k), the Commission is directing certain cable operators to respond to a price survey questionnaire designed to solicit information concerning rates for basic service and cable programming service and equipment used to receive such services. A copy of the questionnaire, along with instructions for completing and returning the questionnaire, is attached to this Order as Appendix B. The cable operators selected for our sample must complete and return the questionnaire(s) no later than February 27, 2004.

3. The survey asks questions about an operator's monthly charge for the basic service tier, cable programming service tiers, and equipment. The survey requires cable operators to provide this information as of January 1, 2004, January 1, 2003, and January 1, 2002. In addition, the survey asks for information on such factors as number of subscribers and installation charges as of January 1, 2004, and January 1, 2003, and operating revenues and expenses for the 12-month period ending December 31, 2003 and December 31, 2002. The survey also seeks information concerning system capacity, advanced services, and channel listings as of January 1, 2004.<sup>4</sup>

4. Our sample includes a random sample of cable systems serving communities where the Commission has granted a petition for effective competition, and a random sample of other communities nationwide. A completed questionnaire is required for each community selected for the survey. If more than one community is selected from any cable system, the cable operator should complete a separate questionnaire for each community unit identification ("CUID") number selected.

5. Data submitted in response to this survey will be made available to the public in aggregate form. No data that can be used to identify individual respondents, either directly or indirectly, will be released to the public. If individual respondents to the survey wish to request confidential treatment of any data provided in connection with this survey, in accordance with Sections 0.457 and 0.459 of the Commission's rules, they should identify clearly the specific information they wish to protect and provide, as required by the rules, a complete explanation of why such treatment is appropriate.

6. Accordingly, IT IS ORDERED pursuant to Section 3 of the 1992 Cable Act (Section 623(k) of the Communications Act of 1934, as amended), 47 U.S.C. 543(k), and Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), that cable systems subject to the price survey requirement described herein shall complete and return the questionnaire set forth in the attached Appendix B no later than February 27, 2004.

FEDERAL COMMUNICATIONS COMMISSION

W. Kenneth Ferree  
Chief, Media Bureau

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<sup>4</sup> We are mindful of the need to limit administrative burdens associated with this price survey. We anticipate that the burdens faced by responding cable operators should be quite limited, as the information requested is of the type that should be readily available to operators. Suggestions for reducing the burden may be sent to the Commission. For further information, see the notice contained in Appendix A of this Order regarding the Privacy Act and Paperwork Reduction Act.

## Appendix A

### 2004 Cable Price Survey

#### **FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT**

The solicitation of information in this form is authorized by Section 623(k) of the Communications Act, as amended. The Commission will use the information provided in this form to compare prices charged for basic cable service, cable programming service, and equipment by cable operators that are subject to effective competition with those not subject to effective competition. This form has been approved by the Office of Management and Budget, under OMB control number 3060-0647 (expiration date: November 30, 2006).

The public reporting burden for this information is estimated to average seven hours per response, including the time for reviewing instructions, searching existing data sources, gathering and entering the data needed, and completing and reviewing the questionnaire. Suggestions for reducing the burden may be included on the note page contained in the questionnaire. Alternatively, send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, Washington, D.C., 20554. (Do not send completed survey questionnaires to this address.)

The above notice is required by the Privacy Act of 1974, Pub. L. No. 93-579, 88 Stat. 1897, codified at 5 U.S.C. § 552a (e)(3), and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163, codified at 44 U.S.C. § 3507.

**APPENDIX B**

## 2004 Cable Price Survey

**INSTRUCTIONS FOR FCC ANNUAL CABLE INDUSTRY PRICE SURVEY**

**General Information:** Complete the attached questionnaire to the best of your ability. Please read these instructions before completing the survey. In addition, refer to the questionnaire for guidance on answering specific questions. This is important because it is essential that all operators use the same definition for each question.

Information is generally requested at the community/franchise level, although we ask for the number of households and number of subscribers at both the community and system level, and questions pertaining to operating revenues and expenses are at the system level. Complete a questionnaire for each CUID listed in the attachment to the letter accompanying this Order.

**Background:** The 1992 Cable Act requires that the Commission publish an annual statistical report on average rates for basic cable service, cable programming service, and equipment. The report must compare the prices charged by cable operators subject to effective competition with those that are not subject to effective competition. This survey is intended to collect the data needed to fulfill that statutory requirement.

The survey asks questions about an operator's monthly charge for the basic service tier and cable programming service tiers, and the monthly charge for equipment as of January 1, 2004, January 1, 2003, and January 1, 2002. In addition, the survey asks for information on the number of subscribers, number of channels in each tier, installation charges, and operating revenues and expenses as of January 1, 2004 and January 1, 2003 (or for the 12-month period ending December 31, 2003 and December 31, 2002, as appropriate). The survey also seeks information on system capacity, advanced services, and channel listings as of January 1, 2004.

**Tier Definitions:** Basic Service Tier (BST) is the package of channels (or tier) that includes the retransmission of local broadcast stations; public, educational and government (PEG) channels; commercial leased access of local origination; and other local stations. It sometimes may include a few satellite or regional channels.

Cable Programming Service Tier (CPST) is any package or tier of channels other than the BST or programming offered as pay-per-program or pay-per-channel.

**Responding Official:** A company official who is familiar with the services offered and rates charged by the cable system should complete this survey.

**How to download the survey from the Commission's Internet web site:** Download the questionnaire in computer spreadsheet format at <http://www.fcc.gov/mb/2004>, located on the Commission's Internet site. The questionnaire is available as both a Microsoft (Excel 97-2001) workbook and Lotus 1-2-3 (Release 9.5) workbook.

**How to return the survey to the Commission:** Responses must be received no later than February 27, 2004. To facilitate the return of completed questionnaires, we encourage you to return the questionnaire as an attachment to an e-mail. Alternatively, we request that you hand or messenger deliver the

questionnaires, or deliver by commercial overnight carrier to the addresses specified below. In selecting any of these options, please ensure that the electronic survey file you send is virus free using virus-detection software. If filing by e-mail, no paper copy of the completed questionnaire need be sent. If using one of the other options listed below, please send one paper copy and one 3.5-inch diskette containing the completed questionnaire. Please do not send a diskette containing the completed questionnaire via regular mail because the mail screening techniques used by the Agency will render the diskette useless. If you do not have access to a computer, two paper copies will be accepted in lieu of an electronic filing.

**E-Mail:** We encourage the use of e-mail to facilitate the return of completed questionnaires. Attach the completed questionnaire as an Excel or Lotus attachment to an e-mail message sent to the following address, which was established uniquely for this purpose: [cablesurvey@fcc.gov](mailto:cablesurvey@fcc.gov). Only FCC employees participating in the analysis of the survey will have access to this account. Responses will be protected to ensure that after being received by the FCC they are secure from unauthorized access. No paper copy of the survey need be sent.

**Commercial overnight delivery:** You may return completed questionnaires via a commercial overnight delivery service. Responses should be delivered to 9300 East Hampton Drive, Capitol Heights, MD 20743, between 8:00 a.m. and 5:30 p.m. Address to Media Bureau, Federal Communications Commission, Attention: Cable Price Survey. Deliver one paper copy and one 3.5-inch diskette containing the questionnaire in Excel or Lotus format.

**Hand delivery or messenger delivery:** The Commission's contractor, Natek, Inc., will receive either hand-delivered or messenger-delivered filings at 236 Massachusetts Avenue NE, Suite 110, Washington, D.C. 20002, between 8:00 a.m. and 7:00 p.m. Envelopes must be disposed of before entering the building. Therefore, attach a cover page to one paper copy of the questionnaire, addressed to Media Bureau, Federal Communications Commission, Attention: Cable Price Survey. Fasten together that paper copy and a 3.5-inch diskette containing the completed questionnaire in Excel or Lotus format, and deliver to the above address.

**Confidentiality:** If individual respondents to the survey wish to request confidential treatment of any data provided in connection with this survey, in accordance with Sections 0.457 or 0.459 of the Commission's rules, they should identify clearly the specific information they wish to protect and provide, as required by the rules, a complete explanation of why such treatment is appropriate.

**If You Need Help:** If you have any questions regarding the content of the questionnaire, the definitions to be used in answering specific questions, or the method of filing, please call John Scott of the Media Bureau at (202) 418-2330, Monday through Friday, between 9:00 a.m. and 5:30 p.m. (EST), for assistance.