This document is scheduled to be published in the
Federal Register on 08/26/2025 and available online at
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[GN Docket No. 25-133; DA 25-736; FR ID 309943]

Delete, Delete, Delete; Removal of Obsolete Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Media Bureau of the Federal Communications Commission (Commission) conforms part 76 of the Commission's rules to the court decisions in *Time Warner Cable Inc. v. FCC*, which vacated the temporary standstill rule for program carriage complaint proceedings, and *EchoStar Satellite LLC v. FCC*, which set aside two 2003 Commission orders adopting the encoding rules.

DATES: Effective [**INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

FOR FURTHER INFORMATION CONTACT: Kathy Berthot, Federal Communications Commission, Media Bureau, Policy Division, Kathy.Berthot@fcc.gov, (202) 418-7454.

SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's Order in GN Docket No. 25-133, DA 25-736, adopted and released on August 21, 2025. The full text of this document is available for public inspection and can be downloaded at https://docs.fcc.gov/public/attachments/DA-25-736A1.pdf.

Procedural Matters

Paperwork Reduction Act of 1995 Analysis: This document does not contain new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501-3521. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, 44 U.S.C. 3506(c)(4).

Congressional Review Act: The Media Bureau has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget concurs, that this rule is "non-major" under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Synopsis

INTRODUCTION

By this Order, we conform part 76 of the Commission's rules to court decisions nullifying certain provisions in that part. In the *Delete, Delete, Delete* proceeding, the Commission made clear its goal to "review its rules to identify and eliminate those that are unnecessary in light of current circumstances." The Media Bureau takes this action in furtherance of that goal, finding that these rules "no longer have any operative effect," and therefore should not remain in the Code of Federal Regulations (CFR). Specifically, this action will remove from our regulations approximately 14 pages, 5,855 words, and 43 rules or requirements.

We first conform part 76 to the decision of the Second Circuit Court of Appeals (Second Circuit) in *Time Warner Cable Inc. v. FCC* (*Time Warner Cable*), which vacated the temporary standstill rule for program carriage complaint proceedings set forth in § 76.1302(k) of the Commission's rules. The Commission adopted the temporary standstill rule in the *Program Carriage Second Report and Order* on July 29, 2011, establishing procedures for the Media Bureau's consideration of requests for a temporary standstill of the price, terms, and other conditions of an existing programming contract by a program carriage complainant seeking renewal of such a contract. The Commission published a summary of the *Program Carriage Second Report and Order* in the *Federal Register* on September 29, 2011. In accordance with normal procedure, the CFR was revised to reflect adoption of the temporary standstill rule. On September 4, 2013, the Second Circuit issued its decision in *Time Warner Cable* vacating the

temporary standstill rule, finding that the rule was not promulgated in accordance with the Administrative Procedure Act's notice and comment rulemaking requirements. As a result of the Second Circuit's decision, the text of § 76.1302(k) that currently appears in the CFR has no legal effect and is obsolete. We note that in 2020, the Commission issued a *Report and Order* deleting § 76.1302(k) from the CFR. The Commission subsequently published a summary of this *Report and Order* in the *Federal Register*, with an effective date of January 19, 2021. Nevertheless, section 76.1302(k) still remains in the CFR. Accordingly, we delete § 76.1302(k), finding that doing so has no effect on the scope and nature of the currently enforceable Commission requirements and simply effectuates the Second Circuit's action in *Time Warner Cable*.

We also conform part 76 to the decision of the District of Columbia Circuit Court of Appeals (D.C. Circuit) in *EchoStar Satellite LLC v. FCC* (*EchoStar Satellite*), which set aside two 2003 Commission orders adopting the encoding rules set forth in §§ 76.1901 through 76.1908 of the Commission's rules. The Commission adopted the encoding rules, which place limits on the use of encoding by cable television operators and satellite providers to prevent or limit copying of their programming, in the *Second Plug and Play Report and Order* on September 10, 2003. The Commission published a summary of the *Second Plug and Play Report and Order* in the *Federal Register* on November 28, 2003. On December 19, 2003, the Commission adopted an *Order on Reconsideration* which modified one of the definitions in the encoding rules. The Commission published a summary of the *Order on Reconsideration* in the *Federal Register* on January 28, 2004. In accordance with normal procedure, the CFR was revised to reflect adoption of the encoding rules. In *EchoStar Satellite*, the D.C. Circuit vacated in their entirety the *Second Plug and Play Report and Order* and the *Order on Reconsideration*, concluding that the Commission exceeded its statutory authority in adopting the encoding rules set forth in §§ 76.1901 through 76.1908. As a result of the D.C. Circuit's decision, the text of §§ 76.1901 through 76.1908 that currently appear in the CFR has no legal effect and is obsolete. Accordingly, we delete §§ 76.1901 through 76.1908, finding that doing so has no effect on the

scope and nature of the currently enforceable Commission requirements and simply effectuates the D.C. Circuit's action in *EchoStar Satellite*.

Pursuant to 5 U.S.C. 553(b)(B), because we are simply conforming the text of the Commission's rules in the CFR to reflect the court's decisions in *Time Warner Cable* and *EchoStar Satellite*, and we are not taking any independent action or exercising any discretion, we find that notice and the opportunity for public comment are unnecessary for this action. For the same reason, pursuant to 5 U.S.C. 553(d), this action will be effective immediately upon publication in the *Federal Register*.

The changes to part 76 of the Commission's rules to conform to these court decisions are reflected in Appendix A.

ORDERING CLAUSES

Accordingly, IT IS ORDERED that part 76 of the Commission's rules, 47 CFR part 76, is amended as set forth in Appendix A effective upon publication in the *Federal Register*.

IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Program Management, SHALL SEND a copy of this Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 76

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76 – MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 335, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 562, 571, 572, 573.

Subpart Q – Regulation of Carriage Agreements

§ 76.1302 [Amended]

2. Amend § 76.1302 by removing paragraph (k).

Subpart W – Encoding Rules

§§ 76.1901 through 76.1908 [Removed]

3. Remove §§ 76.1901 through 76.1908.

[FR Doc. 2025-16351 Filed: 8/25/2025 8:45 am; Publication Date: 8/26/2025]