

MUST-CARRY AND RETRANSMISSION CONSENT

This Memo is separated into two sections: (i) cable and (ii) satellite carriage. Unless otherwise noted, the rules and procedures described in Section I for cable also apply to satellite. Although our Memo is separated into two sections, stations need upload only one carriage election statement that specifies their election of must carry or retransmission consent with respect to all the cable and satellite providers in their markets. As discussed further below, stations also need to send emails to the relevant multichannel video programming distributors (MVPDs) as well as the FCC if they are changing their elections.

As a reminder, in 2019, the FCC substantially revised its rules to streamline and modernize the procedures that apply to carriage elections. Those rule changes took effect in 2020 and applied during the 2020 election cycle. Stations that fail to follow the requirements risk defaulting to an election status they do not want and violating the FCC's public file requirements. Please carefully review the requirements.

Section I: Cable Carriage

Q: *What is the deadline for this year's must-carry/retransmission consent elections?*

A: Stations must notify cable systems of their election by **October 1, 2023**. This election will be effective from January 1, 2024 through December 31, 2026. These dates also apply to satellite carriage of broadcast television stations (see Section II, below).

Q: *How do I make my election?*

A: Prior to the 2020 election, FCC rules required stations to send an election notice to every cable system in its television market by certified, return receipt mail. Today, stations are required to make their carriage elections electronically. Stations must take the following steps to make their cable carriage elections:

- 1) All commercial and noncommercial broadcasters are required to place an email address and phone number for carriage-related questions in

their online public files.¹ The FCC will ensure that this information appears on the first page of the station's public file. This information must be kept up-to-date, and broadcasters are required to respond as soon as is reasonably possible to carriage questions from MVPDs. This requirement has been in effect since July 2020, but all stations should check the information on file and ensure it is current.

- 2) No later than **October 1, 2023**, each full power and Class A television broadcaster must place a carriage election statement in its online public file.² If a station wants to make different elections with respect to different MVPDs, the election statement in the public file must reflect those differences.
- 3) In addition to placing the carriage election statement in their online public files, stations that are *changing* their election with respect to one or more MVPDs must send an election change notice to the affected MVPD(s) no later than **October 1, 2023**. The change notice **must be sent via email** to an MVPD's carriage election-specific email address and attached to the station's election statement in its public file by the carriage election deadline. The carriage election-specific email address for a cable operator can be found in the Cable Operations and Licensing System (COALS) database. In addition, the broadcaster must carbon copy ElectionNotices@FCC.gov when sending election change notices. Change notices must include: (i) the station's call sign, (ii) the station's community of license, (iii) the DMA where the station is located, (iv) the specific change being made in election status, and (v) the broadcaster's email address, phone number and station contact person for carriage-related questions. The notice should identify the specific cable systems for which the carriage election applies if the broadcaster is changing its election for some systems, but not all.³

¹ For Class A and LPTV stations, the contact information must be placed in the FCC's Licensing and Management System (LMS).

² Qualified low power TV (LPTV) and noncommercial (NCE) translator stations must send an initial baseline notice to covered MVPDs (because they are not required to maintain an online public file) and need only provide notice of changes to their election status via email following the baseline notice.

³ If a broadcaster receives no response to its change notice from the MVPD or receives a notice that the message was not delivered, the station must contact the MVPD using the MVPD's carriage election-specific phone number to confirm receipt or arrange for redelivery. If a station is still unable to contact the MVPD, the notice will still be proper if it was properly cc'd to the FCC's election notice mailbox and was timely placed in the station's public file.

Significantly, if a station fails to place a timely election in its online public file, it will be deemed to have elected must-carry. 47 CFR 76.55(f)(3). The station also will have violated the FCC's public file rules. 47 C.F.R. § 73.3526(e)(15); 47 C.F.R. § 73.3527(e)(12).

It may be difficult to determine whether an operator who provides service over a large area is operating one cable system or several. If your station has any doubts, we suggest asking the cable system and keeping a record of what you were told. 47 C.F.R. § 76.64(f)(3).

To reduce the risk that a cable system will reject or otherwise disregard a must-carry request, NAB recommends that a station's election statements and/or change notices explicitly state that the station is choosing to "elect" must-carry; do not use seemingly similar terms like "demand" or "request." 47 C.F.R. § 76.64(f)(3).

Q: *I signed a retransmission consent agreement that expires this October. Should I do anything now?*

A: Yes. Because the new election will not go into effect until January, once the previous agreement expires, the cable system no longer has the right to carry your station's signal and the station loses any rights under the agreement as well. Your station may want to enter into a short-term extension of the existing agreement to cover the period between October and January, or negotiate a new long-term retransmission agreement.

Q: *I don't want to make any changes in the elections I made three years ago. Do I have to do anything?*

A: Yes. Each station must still place a carriage election statement in its online public file by October 1, 2023. This is true even if the election is the same one as three years ago, and even if the station's existing retransmission consent agreement is for longer than three years. A station that is not changing its election status does not, however, need to email any change notices to MVPDs or the FCC. This is also a good time to ensure that the station has an up-to-date email address and phone number for carriage-related questions in its online public file.

Q: *On which cable systems am I entitled to carriage?*

A: Commercial television stations are eligible for must-carry on (1) any cable system in their television market, (2) to which they provide a good quality signal, (3) and on which they are copyright free or agree to indemnify the cable system for any copyright costs.

Stations that have been denied carriage in the past because of an inadequate signal should be sure to make a must-carry election by October 1, 2023 if the station has cured its signal deficiencies, or plans to do so in the near future.

Q: *How are my boundaries set for must-carry purposes?*

A: Unless the FCC modifies a TV market, a commercial TV station's market is its Designated Market Area ("DMA"), as determined by Nielsen Media Research. Nielsen's 2021-2022 list of DMAs must be used for the upcoming must-carry election. 47 C.F.R. § 76.55(e)(2).

Note: A station's TV market includes the county in which the station is licensed, even if it is not in the station's DMA. Also, if the FCC added or removed communities in a station's market, those decisions remain effective. 47 C.F.R. § 76.55(e)(3).

Q: *If there are communities that my station serves that are not in my DMA, can I get them added to my market so that the cable systems serving them will have to carry my signal?*

A: A station may petition the FCC to have communities added to its market. Cable operators can also ask the FCC to exclude communities in a station's DMA from its market so that they will not have to carry the station. If a cable system asks the FCC to delete a community from your station's market, it must continue to carry your station while the FCC considers the request. 47 C.F.R. § 76.59.

The FCC will consider certain factors when deciding modification requests:

- (1) whether the station has historically been carried on cable or satellite systems serving the community;
- (2) whether the station provides coverage or other local service to the community;
- (3) whether modifying the station's local market would promote consumer access to in-state TV station signals;
- (4) whether other stations carried on the cable system provide news, sports, and public affairs coverage of local interest; and
- (5) viewing patterns in the community.

As discussed below, market modification now also applies in the satellite context. County governments can request market modifications for purposes of satellite carriage, but not cable carriage. 47 C.F.R. § 76.59(a).

Q: *What are the good quality signal requirements?*

A: The only requirement is signal strength; signal impairments such as multipath or other issues about the quality of the signal do not affect your must-carry rights. Under the FCC's rules, a must-carry-eligible signal must deliver to a cable system's "principal headend" a signal level of -61dBm. 47 C.F.R. § 76.55(c)(3).

The FCC has specified the types of tests cable systems must perform if they claim a signal is inadequate. If a cable system believes that a station's signal does not qualify, it must provide the station with details about the tests it conducted and the equipment it used. Cable operators must use good engineering practices in obtaining broadcast signals. For example, simply mounting cheap antennas lower than their normal receive point is not sufficient.

Q: *What if my measured strength at the cable system's principal headend does not meet the FCC standard?*

A: Improved antennas, increased tower height, microwave relay equipment, and amplification equipment may be employed to deliver a good quality signal to a cable system. However, it is the station's obligation to bear the costs associated with improvements needed to deliver a good quality signal. Signal quality is also something that stations should keep in mind when requesting market modifications.

Q: *When may I be subject to additional copyright expenses?*

A: Your station's signal is copyright-free on any cable system within the station's must-carry TV market, including any system in the station's DMA and any system in a community that was added to its market by the FCC. For most stations, this means that your station will not need to pay any copyright fees to gain carriage of your signal.

Q: *How many stations does a cable system have to carry?*

A: Cable systems are required to carry all full-power commercial TV stations in their market up to one-third of their channel capacity. Cable systems are required to carry in addition one or more non-commercial TV stations. They may also have to carry up to two qualified low-power TV stations, but a system cannot carry a low-power station instead of a qualified full-power station. 47 C.F.R. § 76.56(b)(2).

Q: *How many stations does a small cable system have to carry?*

A: Very small cable systems are subject to limited must-carry requirements. Systems with 12 or fewer channels must carry only three local commercial TV signals. If one of those systems has 300 or fewer subscribers, it only has to keep carrying the signals it carried on October 5, 1992. 47 C.F.R. § 76.56(b)(1).

Q: *What if there are more qualified signals than available must-carry positions on a cable system?*

A: If there are more qualified signals than a cable system is required to carry, the cable operator may choose which signals it will carry to fulfill its must-carry obligations. A cable operator may not carry a low power station in lieu of a local commercial station. 47 C.F.R. § 76.56(b)(4).

Q: *Are there restrictions on the cable operator's choice?*

A: Yes. If there are two affiliates of the same network eligible for carriage, the cable operator must, if it carries either of those stations, first carry the affiliate which is closest to the cable system's principal headend. For these purposes, a "network" is defined as an entity "that offers programming on a regular basis for 15 or more hours per week to at least 25 affiliates in 10 or more states." 47 C.F.R. § 76.56(b)(4)(ii).

Q: *Does retransmission consent affect how a cable system's must-carry obligations are calculated?*

A: Yes. TV stations that would be eligible for must-carry on a cable system but are carried under retransmission consent agreements count towards the cable system's must-carry "cap."

Q: *Are there stations that cable systems do not have to carry?*

A: Cable systems are not required to carry two affiliates of the same TV network. They also do not have to carry two stations that "substantially duplicate" each other. Commercial stations are deemed to "substantially duplicate" each other if, on a regular basis, they simultaneously broadcast the same programming for more than 50% of the broadcast week. If a system does carry two affiliates or two duplicating stations, they both count towards the system's must-carry "cap." 47 C.F.R. § 76.56(b)(5).

Q: *What carriage conditions must a cable system provide for must-carry signals?*

A: All local television signals must be part of a cable system's basic tier. Must-carry signals must be provided to every subscriber of a cable system. Must-carry signals must also be carried in their entirety (*i.e.*, the cable system can't delete programs or substitute commercials) except where the syndicated exclusivity and network non-duplication rules require that a program be deleted. In that case, the cable system may insert a substitute program. 47 C.F.R. §§ 76.56(d); 76.62(a) and (b).

Additionally, all must-carry signals must be carried without "material degradation." The FCC has established two requirements to avoid material degradation: (i) a cable operator may not provide a digital broadcast signal in a lesser format or lower resolution than that afforded to any other signal on the system; and (ii) a cable operator must carry broadcast stations such that, when compared to the broadcast signal, the difference is not really perceptible to the viewer. Thus, a broadcast signal delivered in high definition ("HD") must be carried in HD. Stations should be aware that certain small cable operators are exempt from the HD carriage component of the material degradation standard. Specifically, a small cable system that does not offer any programming in HD is exempt from the HD carriage requirement. In 2015, the FCC held that, if a small cable system using the exemption commences HD carriage, that system

must give notice that it is offering HD programming to all broadcast stations in its market that are carried on its system. The FCC also narrowed its definition of “small” cable systems to include only: (i) cable systems with 552 MHz capacity or less, or (ii) cable systems with under 1,500 subscribers not affiliated with cable companies serving more than two percent of all MVPD subscribers. This more limited exemption is now permanent. But, as more small cable systems transition to offering any HD programming, they also will begin carrying broadcast stations in HD.

Q: *What are the viewability requirements for cable and satellite operators who carry my DTV signal?*

A: Following the DTV transition, all cable operators are required to ensure that a broadcast signal is viewable for all subscribers (including analog) who are connected to a cable system if the broadcaster elected must-carry. In 2012, the FCC determined to allow cable operators to utilize an equipment-based approach for ensuring that analog cable subscribers can view digital broadcast must-carry signals.

There is not a comparable requirement for satellite systems.

Q: *What parts of my signal does a cable system have to carry?*

A: Cable systems must retransmit the primary audio and video portions of must-carry signals. In addition, they must pass through your closed captions and video descriptions and carry any “program-related” material unless carrying that material is not “technically feasible.” Cable systems do not have to carry non-program-related material. 47 C.F.R. § 76.62(c).

Q: *What options do I have for channel positioning?*

A: Stations have four channel positioning options for must-carry signals: (1) its over-the-air channel position, (2) the position on which it was carried on a cable system on July 19, 1985, (3) the position on which it was carried on a cable system on January 1, 1992, or (4) another channel agreed upon with the cable system. For digital, a must-carry station may demand carriage on its major channel number as broadcast in the station’s program and system information protocol (PSIP). 47 C.F.R. § 76.57(a).

Stations that elect must-carry also should identify which specific programming stream they seek carriage of (e.g., Channel 12.A, Channel 12.B).

Q: *What are the differences between must-carry and retransmission consent?*

A: If a station elects must-carry on a cable system, the station will be guaranteed carriage (unless there are more eligible stations than the system’s “cap” or the station substantially duplicates the programming of another must-carry eligible station), but it cannot negotiate with the cable

system about compensation or other carriage terms. If a station elects retransmission consent, it can negotiate with the cable system about compensation or other carriage terms, but it has no guarantee that the cable system will carry its signal. Also, if a station has chosen retransmission consent, the cable system cannot carry its signal without consent.

Q: *Do cable systems outside my market have to obtain retransmission consent?*

A: While such carriage is not subject to the election process, with the exception of a very few "superstations," cable systems outside your market must obtain your consent prior to carriage. 47 C.F.R. § 76.64(a), (b).

Q: *Does retransmission consent just apply to cable systems?*

A: No. Retransmission consent applies to all MVPDs with certain caveats. MVPDs include: (1) all cable systems, (2) all satellite video programming providers, (3) all providers of video programming over telco systems (but not a telephone company that only provides transmission services to other programmers), and (4) MMDS and SMATV systems unless they provide local TV signals without charge *and* the broadcast signal receive antenna is either owned by the subscriber or available for purchase when the service ends. MMDS and SMATV systems do not have must-carry obligations. 47 C.F.R. § 76.64(d) and (e).

The FCC has a long-pending proceeding considering whether certain internet-based MVPDs or "vMVPDs" should be considered MVPDs such that they would be subject to retransmission consent rules.

Q: *Is there an exception for small cable systems?*

A: No. Unlike must-carry, retransmission consent applies to all cable systems.

Q: *Are there other exceptions?*

A: Yes. The signals of noncommercial television stations can be retransmitted without their consent. Satellite carriers may provide signals to unserved households without obtaining retransmission consent (provided that they qualify for the compulsory copyright license for distant signals under the Satellite Television Community Protection and Promotion Act of 2019). Also, superstation signals are not subject to retransmission consent if the station was a superstation on May 1, 1991, the signal was obtained from a satellite carrier, and the cable system or other video distributor is outside of the superstation's TV market. 47 C.F.R. §§ 76.56(a), 76.64(b)(3)(i)-(ii).

Q: *How about retransmission of radio station signals?*

A: Retransmission consent applies to radio signals. The FCC has recognized that some cable systems do not retransmit individual stations, but instead carry the entire FM band. Since they cannot always know which stations' signals could be picked up, the FCC only requires that they obtain retransmission consent from FM stations located within 92 km (57 miles) of the cable system. 47 C.F.R. § 76.64(m).

Q: *What protections apply to signals carried under retransmission consent agreements?*

A: Signals carried under retransmission consent must be carried without "material degradation" and must be carried on a system's basic tier and provided to all subscribers. The signals of stations that would be eligible for must-carry must be carried in their entirety. Program-related material must also be carried to the same extent as on must-carry signals. 47 C.F.R. § 76.62.

Q: *How about channel positioning?*

A: The must-carry channel positioning rules do not apply to retransmission consent signals. Thus, retransmission consent agreements generally include provisions governing a station's channel position.

Q: *Do I have to make the same election for every cable system in my market?*

A: No. A station may make a different election for each cable system, with one exception. If there are two cable systems that serve the same geographic area, the Act requires the station to make the same election for both systems. 47 C.F.R. § 76.64(g).

Q: *Are there any requirements for retransmission consent agreements?*

A: Yes. They must be in writing and must specify the extent of the consent being granted (*e.g.*, the entire signal or only a portion thereof). Also, agreements granting retransmission consent exclusively to one MVPD are prohibited. 47 C.F.R. § 76.64(j).

Q: *Are there restrictions on my negotiating tactics?*

A: Pursuant to statute, the FCC has set forth specific standards requiring good faith negotiations between MVPDs and broadcasters. These rules apply to broadcasters and MVPDs, and prohibit the following conduct: (1) refusal to negotiate retransmission consent; (2) refusal to designate a representative with authority to make binding representations regarding retransmission consent; (3) refusal to meet and negotiate retransmission consent at reasonable times and locations, or acting in a manner that unreasonably delays negotiations; (4) refusal to put forth more than a single, unilateral proposal; (5) failure to respond to a retransmission consent proposal; (6) entry into an agreement prohibiting other retransmission consent agreements; (7) refusal to execute a written

retransmission consent agreement that sets out the full understanding of the parties; (8) coordination of negotiations or joint negotiation among two or more television stations in the same local market that are not commonly owned; (9) the imposition of limitations on an MVPD's ability to carry a station that is significantly viewed, or other station the MVPD is lawfully permitted to carry, into a television station's local market; and (10) a totality of the circumstances indicating that a party has breached its duty to negotiate in good faith. 47 C.F.R. § 76.65.

Additionally, the Television Viewer Protection Act of 2019 (TVPA) enables certain small MVPDs to negotiate retransmission consent with large television broadcast station groups by participating in an MVPD buying group. Large station groups are required to negotiate in good faith with these groups. For purposes of this requirement, a large station group is a group of television stations with a national audience reach of 20% or more (the UHF discount to calculate compliance with the national television ownership cap does not apply here). Under the buying group standard, no MVPD in the group can serve more than 500,000 subscribers nationwide, and the group must collectively serve no more than 25 percent of all MVPD households in any local market where the large station group operates. FCC rules implementing the buying group requirement went into effect in 2020. 47 C.F.R. § 76.65(b)(2).

Note 1: The FCC evaluates compliance with good faith obligations differently in the context of a negotiation between a station and an MVPD that are geographically distant. Specifically, the FCC has acknowledged that stations and MVPDs that are geographically distant (e.g., an LA cable system wanting to carry a NYC station) may have less incentive to negotiate and has stated that the good faith negotiation obligations would be less stringently applied.

Note 2: The FCC acknowledges that network affiliate agreements may limit a station's right to grant retransmission consent. However, where an MVPD seeks to negotiate retransmission consent with such a station, the station must seek a waiver of the agreement terms.

Q: *What are some terms that are often included in retransmission consent agreements?*

A: The following provisions are often included in retransmission consent agreements:

- (1) a provision granting the MVPD consent to retransmit a station's signal during the term of the agreement;
- (2) an agreement that the MVPD will carry a station's signal, including specifications as to channel positioning and other terms of carriage (for example, a station could agree that the cable system will

- provide carriage conditions at least as favorable as the FCC's must-carry rules);
- (3) the terms of any compensation that the MVPD will provide for the right to carry a station's signal;
 - (4) a provision applying the terms of the agreement to any successors or assigns of either party to ensure that the agreement will continue in effect if either the station or the MVPD is sold;
 - (5) any additional provisions dealing with carriage of a station's signal, such as carriage of multicast channels.

In addition, if a station intends to grant retransmission consent only within its local market, and not to cable systems the operator may own in other markets, that intent should be made clear.

Note: While a station's must-carry/retransmission consent election is for three years, retransmission consent agreements can extend beyond three years.

Stations should consult with their own counsel concerning these and other provisions, such as warranties and indemnification clauses, that could be included in retransmission consent agreements.

Section II: Satellite Carriage

Q: *What local stations are eligible for satellite carriage?*

A: A satellite carrier must retransmit all local television stations and qualified low power stations that request carriage in the markets where they provide at least one local television service. To maintain its ability to carry distant signals, DISH has been required for years to offer local service in all markets. Under the Satellite Television Community Protection and Promotion Act of 2019, DIRECTV also is required to carry local signals in all markets to maintain its ability to carry distant signals under the revised statutory framework (unless it negotiates private agreements that would permit distant signal importation). If a station elects retransmission consent and no agreement is reached, satellite carriers are not required to carry that station. 47 C.F.R. §§ 76.66(b).

Q: *What happens if my station fails to make a timely election?*

A: Unlike under the cable must-carry rules, there is no mandatory carriage right if a TV station fails to make a timely and proper affirmative election for satellite must-carry. In such an instance, a television station loses its satellite must-carry rights and retains only its retransmission consent rights. 47 C.F.R. § 76.66(d)(vii). As discussed above, stations that fail to make a timely election also are in violation of the FCC's public file requirements. 47 C.F.R. § 73.3526(e)(15); 47 C.F.R. § 73.3527(e)(12).

Q: *What is the timing and process of making a satellite carriage election?*

A: All satellite carriage elections will last three years and take place on the same schedule as cable must-carry elections (*i.e.*, by **October 1, 2023**). In 2019, the FCC substantially revised and streamlined the carriage election process, as discussed at the section titled “*How do I make my election?*” above. Broadcaster carriage elections for satellite must meet the same requirements as discussed for cable. A satellite provider’s carriage-specific email address for purposes of change notices or other carriage-related communications may be found in its online public file.

Under the revised rules, noncommercial broadcasters must make a request for satellite carriage by placing a carriage statement in its public file no later than the carriage election deadline of **October 1, 2023**. The carriage statement must include the station’s (i) call sign; (ii) community of license; and (iii) the DMA in which it is located and for which it is requesting carriage. The carriage election must be retained in the station’s public file.

In new local-into-local markets, the carrier must notify broadcasters within the DMA at least 60 days in advance of the date it will begin service and specify the location of its local terrestrial receive facilities. Broadcasters must respond to a satellite carrier’s notice of intention to commence service with a formal written election within 30 days of receipt of the carrier’s notice. The satellite carrier must respond to a broadcaster’s election notice within 30 days, notifying the broadcaster whether it will carry the station, and if not, why the carrier rejected carriage. 47 C.F.R. § 76.66(d)(2).

Q: *What should I do if a satellite carrier wants to import a significantly viewed station with the same network affiliation as my station?*

A: As with cable, satellite carriers are allowed, but not required, to import broadcast stations into markets where they are “significantly viewed.” The FCC’s current list of significantly viewed stations can be found [here](#).

As stations are added or deleted from the list, the FCC will re-publish the list at <https://www.fcc.gov/media>. The FCC has allowed satellite carriage of a significantly viewed signal even if the carrier is not carrying the signal

of a local station of the same network.

Section 103(b) of the STELA Reauthorization Act of 2014 prohibits a television broadcast station from limiting the ability of an MVPD to carry into its local market TV signals that are “significantly viewed” or that otherwise can lawfully be carried by the MVPD. In 2015, the FCC updated its retransmission consent good faith negotiation rules to make it a per se violation of those rules for a TV station to impose such limitations. See discussion above, “Are there restrictions on my negotiating tactics?”

Satellite carriers must notify local stations at least 60 days before the import of significantly viewed signals into a local market. Local stations receiving such notices that believe the distant signal is no longer significantly viewed in their market may want to consider initiating proceedings at the FCC to eliminate the distant signal's significantly viewed status. 47 C.F.R. § 76.66(d)(5)(B).

Q: *What options do I have for satellite local-into-local channel positioning?*

A: A satellite carrier is not required to carry broadcast stations on their over-the-air channel number. However, the carrier must ensure that all local television stations are carried as a continuous block on the channel line-up. 47 C.F.R. § 76.66(i)(1).

Note: A satellite carrier may not require subscribers to purchase additional receive equipment to access some but not all local television stations. 47 C.F.R. § 76.66(i)(4).

A satellite carrier may offer local television signals on an “a la carte” basis as long as discriminatory pricing is not used to deter subscribers from purchasing certain local television signals. Offering some local television stations as a package and others individually constitutes discriminatory pricing.

Q: *What kind of technical requirements are relevant to satellite must-carry?*

A: TV stations must provide a good quality signal to the designated local receive facilities of a satellite carrier, which is generally measured at –61 dBm for digital signals.

A satellite carrier is required to make reasonable inquiry (*i.e.*, conduct a signal test or employ predictive modeling) into whether a broadcaster provides acceptable signal quality to its receive facilities before denying carriage.

Broadcasters need only bear the cost of signal tests when there is a *bona fide* dispute as to whether a good quality signal is provided. A broadcaster may arrange alternative delivery to the receive facilities to achieve a good quality signal. 47 C.F.R. § 76.66(l).

Satellite carriers must provide HD service to 100% of the DMAs to which they provide local service. Also, if a satellite carrier imports a significantly viewed digital signal of a station that is affiliated with the same network as your station in HD, then it must provide HD carriage for your station if it is available. 47 C.F.R. § 76.66(k).

Q: *If there are communities that my station serves that are not in my DMA, can I get them added to my market so that the satellite carrier serving them will have to carry my signal?*

A: A station, county government, or satellite operator may petition the FCC to have communities added to, or removed from, a station's market for purposes of satellite carriage. If a satellite carrier asks the FCC to delete a community from your station's market, it must continue to carry your station while the FCC considers the request. 47 C.F.R. § 76.59.

The FCC will consider certain factors when deciding modification requests:

- (1) whether the station has historically been carried on cable or satellite systems serving the community;
- (2) whether the station provides coverage or other local service to the community;
- (3) whether modifying the station's local market would promote consumer access to in-state TV station signals;
- (4) whether other stations carried on the cable system provide news, sports, and public affairs coverage of local interest; and
- (5) viewing patterns in the community.

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Q: *Where can I get additional information?*

A: For questions about terms of agreements or negotiating strategies, stations should call their own communications and/or antitrust counsel. For more general questions about must-carry and retransmission consent, call your counsel or NAB Legal at (202) 429-5430. For questions about good quality signal issues, call NAB Technology at (202) 429-5346. Stations also can call the FCC's Media Bureau at (202) 418-7200.

NAB's Counsel Memos are intended to serve as a source of general information on legal issues of interest to the broadcast industry. Broadcasters seeking information on how the principles discussed in a Counsel Memo apply to their specific circumstances should seek the advice of their own attorneys.