§ 1.6004 Answers.

Within five (5) business days after the date of service, without regard to § 1.4 of this part, the satellite carrier shall file its answer with the Commission, and shall contemporaneously serve the answer upon counsel designated in the complaint, at the address listed for such counsel in the complaint. Service of the answer shall be made by use of one commonly used overnight delivery service and by the United States mail.

§ 1.6005 Exclusive defenses.

(a) The defenses listed in paragraphs (a)(1) through (a)(4) of this section, are the only defenses available to a satellite carrier against which a complaint under this section is filed.

(1) The satellite carrier did not retransmit the television broadcast station’s signal to any person in the “local market” of the television broadcast station, as that term is defined in 17 U.S.C. 122(j) (Designated Market Area as determined by Nielsen Media Research and county containing the station’s community of license), during the time period specified in the complaint;

(2) The television broadcast station had, in a writing signed by an officer of the television broadcast station, expressly authorized the retransmission of the station by the satellite carrier to each person in the “local market” of the television broadcast station, as that term is defined in 17 U.S.C. 122(j), to which the satellite carrier made such retransmissions for the entire time period during which it is alleged that a violation of 47 U.S.C. 325(b)(1) has occurred;

(3) The retransmission was made after January 1, 2002, and the television broadcast station had elected to assert the right to carriage under 47 U.S.C. 338 as against the satellite carrier for the relevant period; or

(4) The television broadcast station whose signal is being retransmitted is a noncommercial television broadcast station.

(b) [Reserved]

§ 1.6006 Counting of violations.

Each day of retransmission without consent of a particular television broadcast station to one or more persons in the local market of the station shall be considered a separate violation of 47 U.S.C. 325(b)(1).

§ 1.6007 Burden of proof.

With respect to each alleged violation, the burden of proof shall be on a television broadcast station to establish that the satellite carrier retransmitted the station to at least one person in the local market of the station on the day in question. The burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under § 1.6005(a)(1).