

Federal Communications Commission

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information will be broadcast; which-ever comes later.

(3) The broadcaster requesting exclu-sivity.

(f) A broadcaster exercising exclu-sivity pursuant to §76.92 shall provide to the cable system, upon request, an exact copy of those portions of the con-tracts, such portions to be signed by both the network and the broadcaster, setting forth in full the provisions per-tinent to the duration, nature, and ex-tent of the non-duplication terms con-cerning broadcast signal exhibition to which the parties have agreed.

§ 76.95 Exceptions.

(a) The provisions of §§76.92 through 76.94 shall not apply to a cable system serving fewer than 1,000 subscribers. Within 60 days following the provision of service to 1,000 subscribers, the op-erator of each such system shall file a notice to that effect with the Commis-sion, and serve a copy of that notice on every television station that would be entitled to exercise network non-dupli-cation protection against it.

(b) Network non-duplication protec-tion need not be extended to a higher priority station for one hour following the scheduled time of completion of the broadcast of a live sports event by that station or by a lower priority sta-tion against which a cable community unit would otherwise be required to provide non-duplication protection fol-lowing the scheduled time of comple-tion.

§ 76.101 Cable syndicated program ex-clusivity: extent of protection.

Upon receiving notification pursuant to §76.105, a cable community unit lo-cated in whole or in part within the ge-ographic zone for a syndicated pro-gram, the syndicated exclusivity rights to which are held by a commercial tel-evision station licensed by the Com-mission, shall not carry that program as broadcast by any other television signal, except as otherwise provided below.

NOTE: With respect to each syndicated pro-gram, the geographic zone within which the television station is entitled to enforce syn-dicated exclusivity rights shall be that geo-graphic area agreed upon between the non-network program supplier, producer or dis-

tributor 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 hyphen-ated 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.

§ 76.103 Parties entitled to syndicated exclusivity.

(a) Television broadcast station li-censees shall be entitled to exercise ex-clusivity rights pursuant to §76.101 in accordance with the contractual provi-sions of their syndicated program li-ense agreements, consistent with §76.109.

(b) Distributors of syndicated pro-gramming shall be entitled to exercise exclusive rights pursuant to §76.101 for a period of one year from the initial broadcast syndication licensing of such programming anywhere in the United States; provided, however, that dis-tributors shall not be entitled to exer-cise such rights in areas in which the programming has already been li-censed.

§ 76.105 Notification.

(a) In order to exercise exclusivity rights pursuant to §76.101, distributors or television stations shall notify each cable television system operator of the exclusivity sought in accordance with the requirements of this section. Syn-dicated program exclusivity notices shall include the following informa-tion:

(1) The name and address of the party requesting exclusivity and the tel-evision broadcast station or other party holding the exclusive right;

(2) The name of the program or series (including specific episodes where nec-essary) for which exclusivity is sought;

(3) The dates on which exclusivity is to begin and end.

(b) Broadcasters entering into con-tracts on or after August 18, 1988, which contain syndicated exclusivity protection shall notify affected cable systems within sixty calendar days of the signing of such a contract. Broad-casters who have entered into con-tracts prior to August 18, 1988, and who comply with the requirements specified

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in § 76.109 shall notify affected cable systems on or before June 19, 1989. A broadcaster shall be entitled to exclusivity protection beginning on the later of:

(1) The date specified in its notice to the cable television system; or

(2) The first day of the calendar week (Sunday through Saturday) that begins 60 days after the cable television system receives notice from the broadcaster;

(c) In determining which programs must be deleted from a television broadcast signal, a cable television system operator may rely on information from any of the following sources published or otherwise made available.

(1) Newspapers or magazines of general circulation;

(2) A television station whose programs may be subject to deletion. If a cable television system asks a television station for information about its program schedule, the television station shall answer the request:

(i) Within ten business days following the television station's receipt of the request; or

(ii) Sixty days before the program or programs mentioned in the request for information will be broadcast; whichever comes later.

(3) The distributor or television station requesting exclusivity.

(d) In the event the exclusivity specified in paragraph (a) of this section has been limited or has ended prior to the time specified in the notice, the distributor or broadcaster who has supplied the original notice shall, as soon as possible, inform each cable television system operator that has previously received the notice of all changes from the original notice. In the event the original notice specified contingent dates on which exclusivity is to begin and/or end, the distributor or broadcaster shall, as soon as possible, notify the cable television system operator of the occurrence of the relevant contingency. Notice to be furnished "as soon as possible" under this paragraph shall be furnished by telephone, telegraph, facsimile, overnight mail or other similar expedient means.

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§ 76.106 Exceptions.

(a) Notwithstanding the requirements of §§ 76.101 through 76.105, a broadcast signal is not required to be deleted from a cable community unit when that cable community unit falls, in whole or in part, within that signal's grade B contour, or when the signal is significantly viewed pursuant to § 76.54 in the cable community.

(b) The provisions of §§ 76.101 through 76.105 shall not apply to a cable system serving fewer than 1,000 subscribers. Within 60 days following the provision of service to 1,000 subscribers, the operator of each such system shall file a notice to that effect with the Commission, and serve a copy of that notice on every television station that would be entitled to exercise syndicated exclusivity protection against it.

§ 76.107 Exclusivity contracts.

A distributor or television station exercising exclusivity pursuant to § 76.101 shall provide to the cable system, upon request, an exact copy of those portions of the exclusivity contracts, such portions to be signed by both the distributor and the television station, setting forth in full the provisions pertinent to the duration, nature, and extent of the exclusivity terms concerning broadcast signal exhibition to which the parties have agreed.

§ 76.108 Indemnification contracts.

No licensee shall enter into any contract to indemnify a cable system for liability resulting from failure to delete programming in accordance with the provisions of this subpart unless the licensee has a reasonable basis for concluding that such program deletion is not required by this subpart.

§ 76.109 Requirements for invocation of protection.

For a station licensee to be eligible to invoke the provisions of § 76.101, it must have a contract or other written indicia that it holds syndicated exclusivity rights for the exhibition of the program in question. Contracts entered on or after August 18, 1988, must contain the following words: "the licensee [or substitute name] shall, by the terms of this contract, be entitled to