

(e) Holding of ownership interests or exercise of editorial control by States or franchising authorities

(1) Subject to paragraph (2), a State or franchising authority may hold any ownership interest in any cable system.

(2) Any State or franchising authority shall not exercise any editorial control regarding the content of any cable service on a cable system in which such governmental entity holds ownership interest (other than programming on any channel designated for educational or governmental use), unless such control is exercised through an entity separate from the franchising authority.

(f) Enhancement of effective competition

(1) In order to enhance effective competition, the Commission shall, within one year after October 5, 1992, conduct a proceeding—

(A) to prescribe rules and regulations establishing reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such person, or in which such person has an attributable interest;

(B) to prescribe rules and regulations establishing reasonable limits on the number of channels on a cable system that can be occupied by a video programmer in which a cable operator has an attributable interest; and

(C) to consider the necessity and appropriateness of imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of video programming.

(2) In prescribing rules and regulations under paragraph (1), the Commission shall, among other public interest objectives—

(A) ensure that no cable operator or group of cable operators can unfairly impede, either because of the size of any individual operator or because of joint actions by a group of operators of sufficient size, the flow of video programming from the video programmer to the consumer;

(B) ensure that cable operators affiliated with video programmers do not favor such programmers in determining carriage on their cable systems or do not unreasonably restrict the flow of the video programming of such programmers to other video distributors;

(C) take particular account of the market structure, ownership patterns, and other relationships of the cable television industry, including the nature and market power of the local franchise, the joint ownership of cable systems and video programmers, and the various types of non-equity controlling interests;

(D) account for any efficiencies and other benefits that might be gained through increased ownership or control;

(E) make such rules and regulations reflect the dynamic nature of the communications marketplace;

(F) not impose limitations which would bar cable operators from serving previously unserved rural areas; and

(G) not impose limitations which would impair the development of diverse and high quality video programming.

(g) Combination of interests under prior law

This section shall not apply to prohibit any combination of any interests held by any person on July 1, 1984, to the extent of the interests so held as of such date, if the holding of such interests was not inconsistent with any applicable Federal or State law or regulations in effect on that date.

(h) "Media of mass communications" defined

For purposes of this section, the term "media of mass communications" shall have the meaning given such term under section 309(i)(3)(C)(i) of this title.

(June 19, 1934, ch. 652, title VI, §613, as added Pub. L. 98-549, §2, Oct. 30, 1984, 98 Stat. 2785; amended Pub. L. 102-385, §11, Oct. 5, 1992, 106 Stat. 1486; Pub. L. 103-414, title III, §303(a)(22), Oct. 25, 1994, 108 Stat. 4295; Pub. L. 104-104, title II, §202(i), title III, §§302(b)(1), Feb. 8, 1996, 110 Stat. 112, 124.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-104, §202(i), redesignated par. (2) as subsec. (a) and subpars. (A) and (B) of par. (2) as pars. (1) and (2) of subsec. (a), respectively, added par. (3), and struck out former par. (1) which read as follows: "It shall be unlawful for any person to be a cable operator if such person, directly or through 1 or more affiliates, owns or controls, the licensee of a television broadcast station and the predicted grade B contour of such station covers any portion of the community served by such operator's cable system."

Subsec. (b). Pub. L. 104-104, §302(b)(1), struck out subsec. (b), which related to common carriers, direct video programming, an exception for rural areas, and waiver.

1994—Subsec. (b)(2). Pub. L. 103-414 substituted "pole, line, conduit space" for "pole line conduit space".

1992—Subsec. (a). Pub. L. 102-385, §11(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 102-385, §11(b), substituted "any other media" for "any media" and inserted at end "Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction."

Subsecs. (f) to (h). Pub. L. 102-385, §11(c), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-385 effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102-385, set out as a note under section 325 of this title.

EFFECTIVE DATE

Section effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as a note under section 521 of this title.

§ 534. Carriage of local commercial television signals

(a) Carriage obligations

Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations and qualified low power stations as provided by this section. Car-

riage of additional broadcast television signals on such system shall be at the discretion of such operator, subject to section 325(b) of this title.

(b) Signals required

(1) In general

(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations, up to one-third of the aggregate number of usable activated channels of such system.

(2) Selection of signals

Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that—

(A) under no circumstances shall a cable operator carry a qualified low power station in lieu of a local commercial television station; and

(B) if the cable operator elects to carry an affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

(3) Content to be carried

(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio, and line 21 closed caption transmission of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking interval or other non-program-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 47, Code of Federal Regula-

tions (as in effect on January 1, 1991), or any successor regulations thereto.

(4) Signal quality

(A) Nondegradation; technical specifications

The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

(B) Advanced television

At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

(5) Duplication not required

Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which substantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

(6) Channel positioning

Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

(7) Signal availability

Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all tele-

vision receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers at rates in accordance with section 543(b)(3) of this title.

(8) Identification of signals carried

A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

(9) Notification

A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

(10) Compensation for carriage

A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

(A) any such station may be required to bear the costs associated with delivering a good quality signal or a baseband video signal to the principal headend of the cable system;

(B) a cable operator may accept payments from stations which would be considered distant signals under section 111 of title 17 as indemnification for any increased copyright liability resulting from carriage of such signal; and

(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a cable operator and a local commercial television station entered into prior to June 26, 1990.

(c) Low power station carriage obligation

(1) Requirement

If there are not sufficient signals of full power local commercial television stations to fill the channels set aside under subsection (b)—

(A) a cable operator of a cable system with a capacity of 35 or fewer usable activated channels shall be required to carry one qualified low power station; and

(B) a cable operator of a cable system with a capacity of more than 35 usable activated channels shall be required to carry two qualified low power stations.

(2) Use of public, educational, or governmental channels

A cable operator required to carry more than one signal of a qualified low power station under this subsection may do so, subject to approval by the franchising authority pursuant to section 531 of this title, by placing such additional station on public, educational, or governmental channels not in use for their designated purposes.

(d) Remedies

(1) Complaints by broadcast stations

Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

(2) Opportunity to respond

The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

(3) Remedial actions; dismissal

Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

(e) Input selector switch rules abolished

No cable operator shall be required—

(1) to provide or make available any input selector switch as defined in section 76.5(mm)

of title 47, Code of Federal Regulations, or any comparable device; or

(2) to provide information to subscribers about input selector switches or comparable devices.

(f) Regulations by Commission

Within 180 days after October 5, 1992, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section. Such implementing regulations shall include necessary revisions to update section 76.51 of title 47 of the Code of Federal Regulations.

(g) Sales presentations and program length commercials

(1) Carriage pending proceeding

Pending the outcome of the proceeding under paragraph (2), nothing in this chapter shall require a cable operator to carry on any tier, or prohibit a cable operator from carrying on any tier, the signal of any commercial television station or video programming service that is predominantly utilized for the transmission of sales presentations or program length commercials.

(2) Proceeding concerning certain stations

Within 270 days after October 5, 1992, the Commission, notwithstanding prior proceedings to determine whether broadcast television stations that are predominantly utilized for the transmission of sales presentations or program length commercials are serving the public interest, convenience, and necessity, shall complete a proceeding in accordance with this paragraph to determine whether broadcast television stations that are predominantly utilized for the transmission of sales presentations or program length commercials are serving the public interest, convenience, and necessity. In conducting such proceeding, the Commission shall provide appropriate notice and opportunity for public comment. The Commission shall consider the viewing of such stations, the level of competing demands for the spectrum allocated to such stations, and the role of such stations in providing competition to nonbroadcast services offering similar programming. In the event that the Commission concludes that one or more of such stations are serving the public interest, convenience, and necessity, the Commission shall qualify such stations as local commercial television stations for purposes of subsection (a). In the event that the Commission concludes that one or more of such stations are not serving the public interest, convenience, and necessity, the Commission shall allow the licensees of such stations a reasonable period within which to provide different programming, and shall not deny such stations a renewal expectancy solely because their programming consisted predominantly of sales presentations or program length commercials.

(h) Definitions

(1) Local commercial television station

(A) In general

For purposes of this section, the term "local commercial television station" means

any full power television broadcast station, other than a qualified noncommercial educational television station within the meaning of section 535(l)(1) of this title, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system.

(B) Exclusions

The term "local commercial television station" shall not include—

(i) low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto;

(ii) a television broadcast station that would be considered a distant signal under section 111 of title 17, if such station does not agree to indemnify the cable operator for any increased copyright liability resulting from carriage on the cable system; or

(iii) a television broadcast station that does not deliver to the principal headend of a cable system either a signal level of -45dBm for UHF signals or -49dBm for VHF signals at the input terminals of the signal processing equipment, if such station does not agree to be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

(C) Market determinations

(i) For purposes of this section, a broadcasting station's market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section. In considering such requests, the Commission may determine that particular communities are part of more than one television market.

(ii) In considering requests filed pursuant to clause (i), the Commission shall afford particular attention to the value of localism by taking into account such factors as—

(I) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community or on the satellite carrier or carriers serving such community;

(II) whether the television station provides coverage or other local service to such community;

(III) whether modifying the market of the television station would promote consumers' access to television broadcast station signals that originate in their State of residence;

(IV) whether any other television station that is eligible to be carried by a cable sys-

tem in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and

(V) evidence of viewing patterns in households that subscribe and do not subscribe to the services offered by multi-channel video programming distributors within the areas served by such multi-channel video programming distributors in such community.

(iii) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this subparagraph.

(iv) Within 120 days after the date on which a request is filed under this subparagraph (or 120 days after February 8, 1996, if later), the Commission shall grant or deny the request.

(2) Qualified low power station

The term “qualified low power station” means any television broadcast station conforming to the rules established for Low Power Television Stations contained in part 74 of title 47, Code of Federal Regulations, only if—

(A) such station broadcasts for at least the minimum number of hours of operation required by the Commission for television broadcast stations under part 73 of title 47, Code of Federal Regulations;

(B) such station meets all obligations and requirements applicable to television broadcast stations under part 73 of title 47, Code of Federal Regulations, with respect to the broadcast of nonentertainment programming; programming and rates involving political candidates, election issues, controversial issues of public importance, editorials, and personal attacks; programming for children; and equal employment opportunity; and the Commission determines that the provision of such programming by such station would address local news and informational needs which are not being adequately served by full power television broadcast stations because of the geographic distance of such full power stations from the low power station’s community of license;

(C) such station complies with interference regulations consistent with its secondary status pursuant to part 74 of title 47, Code of Federal Regulations;

(D) such station is located no more than 35 miles from the cable system’s headend, and delivers to the principal headend of the cable system an over-the-air signal of good quality, as determined by the Commission;

(E) the community of license of such station and the franchise area of the cable system are both located outside of the largest 160 Metropolitan Statistical Areas, ranked by population, as determined by the Office of Management and Budget on June 30, 1990, and the population of such community of license on such date did not exceed 35,000; and

(F) there is no full power television broadcast station licensed to any community

within the county or other political subdivision (of a State) served by the cable system.

Nothing in this paragraph shall be construed to change the secondary status of any low power station as provided in part 74 of title 47, Code of Federal Regulations, as in effect on October 5, 1992.

(June 19, 1934, ch. 652, title VI, §614, as added Pub. L. 102-385, §4, Oct. 5, 1992, 106 Stat. 1471; amended Pub. L. 104-104, title III, §301(d)(1), Feb. 8, 1996, 110 Stat. 116; Pub. L. 113-200, title I, §§102(b), 105(a), Dec. 4, 2014, 128 Stat. 2061, 2063.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (g)(1), was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

2014—Subsec. (b)(9). Pub. L. 113-200, §105(a), struck out “No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations.” after “that station.”

Subsec. (h)(1)(C)(ii)(I). Pub. L. 113-200, §102(b)(1)(A), substituted “community or on the satellite carrier or carriers serving such community” for “community”.

Subsec. (h)(1)(C)(ii)(III). Pub. L. 113-200, §102(b)(1)(C), added subcl. (III). Former subcl. (III) redesignated (IV).

Subsec. (h)(1)(C)(ii)(IV). Pub. L. 113-200, §102(b)(1)(B), redesignated subcl. (III) as (IV). Former subcl. (IV) redesignated (V).

Subsec. (h)(1)(C)(ii)(V). Pub. L. 113-200, §102(b)(1)(D), amended subcl. (V) generally. Prior to amendment, subcl. (V) read as follows: “evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.”

Pub. L. 113-200, §102(b)(1)(B), redesignated subcl. (IV) as (V).

Subsec. (h)(1)(C)(iv). Pub. L. 113-200, §102(b)(2), realigned margins.

1996—Subsec. (h)(1)(C)(i). Pub. L. 104-104, §301(d)(1)(A), substituted “by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns,” for “in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991.”

Subsec. (h)(1)(C)(iv). Pub. L. 104-104, §301(d)(1)(B), added cl. (iv) and struck out former cl. (iv) which read as follows: “In the rulemaking proceeding required by subsection (f) of this section, the Commission shall provide for expedited consideration of requests filed under this subparagraph.”

EFFECTIVE DATE

Section effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102-385, set out as an Effective Date of 1992 Amendment note under section 325 of this title.

REVISION OF RULES

Pub. L. 113-200, title I, §105(b), Dec. 4, 2014, 128 Stat. 2063, provided that: “Not later than 90 days after the date of the enactment of this Act [Dec. 4, 2014], the [Federal Communications] Commission shall revise section 76.1601 of its rules (47 CFR 76.1601) and any note to such section by removing the prohibition against deletion or repositioning of a local commercial television station during a period in which major television ratings services measure the size of audiences of local television stations.”

APPLICATION TO PENDING REQUESTS

Pub. L. 104-104, title III, §301(d)(2), Feb. 8, 1996, 110 Stat. 116, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to—

"(A) any request pending under section 614(h)(1)(C) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)) on the date of enactment of this Act [Feb. 8, 1996]; and

"(B) any request filed under that section after that date."

§ 535. Carriage of noncommercial educational television

(a) Carriage obligations

In addition to the carriage requirements set forth in section 534 of this title, each cable operator of a cable system shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

(b) Requirements to carry qualified stations

(1) General requirement to carry each qualified station

Subject to paragraphs (2) and (3) and subsection (e), each cable operator shall carry, on the cable system of that cable operator, any qualified local noncommercial educational television station requesting carriage.

(2) Systems with 12 or fewer channels

(A) Notwithstanding paragraph (1), a cable operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that a cable operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

(i) the cable operator shall import and carry on that system the signal of one qualified noncommercial educational television station;

(ii) the selection for carriage of such a signal shall be at the election of the cable operator; and

(iii) in order to satisfy the requirements for carriage specified in this subsection, the cable operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such cable operator shall use the first channel available to satisfy the requirements of this subparagraph.

(3) Systems with 13 to 36 channels

(A) Subject to subsection (c), a cable operator of a cable system with 13 to 36 usable activated channels—

(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

(ii) may, in its discretion, carry additional such stations.

(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the cable operator shall import and carry on that system the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

(C) The cable operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

(D) A cable operator of a system described in this paragraph which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990, shall, in accordance with the provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

(c) Continued carriage of existing stations

Notwithstanding any other provision of this section, all cable operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular cable operator and a particular such station, upon the written consent of the cable operator and the station.

(d) Placement of additional signals

A cable operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so, subject to approval by the franchising authority pursuant to section 531 of this title, by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

(e) Systems with more than 36 channels

A cable operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

(f) Waiver of nonduplication rights

A qualified local noncommercial educational television station whose signal is carried by a cable operator shall not assert any network non-