

## SUPPORTING STATEMENT

### A. Justification:

1. 47 CFR Section 76.630(a) states a cable system operator shall not scramble or otherwise encrypt signals carried on the basic service tier. Requests for waivers of this prohibition must demonstrate either a substantial problem with theft of basic tier service or a strong need to scramble basic signals for other reasons. As part of this showing, cable operators are required to notify subscribers by mail of waiver requests. The notice to subscribers must be mailed no later than thirty calendar days from the date the request waiver was filed with the Commission, and cable operators must inform the Commission in writing, as soon as possible, of that notification date. The notification to subscribers must state:

On (date of waiver request was filed with the Commission), (cable operator's name) filed with the Federal Communications Commission a request for waiver of the rule prohibiting scrambling of channels on the basic tier of service. The request for waiver states (a brief summary of the waiver request). A copy of the request for waiver is on file for public inspection at (the address of the cable operator's local place of business).

Individuals who wish to comment on this request for waiver should mail comments to the Federal Communications Commission by no later than 30 days from (the date the notification was mailed to subscribers). Those comments should be addressed to the: Federal Communications Commission, Media Bureau, Washington, DC 20554, and should include the name of the cable operator to whom the comments are applicable. Individuals should also send a copy of their comments to (the cable operator at its local place of business). Cable operators may file comments in reply no later than 7 days from the date subscriber comments must be filed.

47 CFR Section 76.1621 states a cable system operators that use scrambling, encryption or similar technologies in conjunction with cable system terminal devices, as defined in §15.3(e) of this chapter, that may affect subscribers' reception of signals shall offer to supply each subscriber with special equipment that will enable the simultaneous reception of multiple signals. The equipment offered shall include a single terminal device with dual descramblers/decoders and/or timers and bypass switches. Other equipment, such as two independent set-top terminal devices may be offered at the same time that the single terminal device with dual tuners/descramblers is offered. For purposes of this rule, two set-top devices linked by a control system that provides functionality equivalent to that of a single device with dual descramblers is considered to be the same as a terminal device with dual descramblers/decoders.

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(a) The offer of special equipment shall be made to new subscribers at the time they subscribe and to all subscribers at least once each year (i.e., in subscriber billings or pre-printed information on the bill).

(b) Such special equipment shall, at a minimum, have the capability:

(1) To allow simultaneous reception of any two scrambled or encrypted signals and to provide for tuning to alternative channels on a pre-programmed schedule; and

(2) To allow direct reception of all other signals that do not need to be processed through descrambling or decryption circuitry (this capability can generally be provided through a separate by-pass switch or through internal by-pass circuitry in a cable system terminal device).

(c) Cable system operators shall determine the specific equipment needed by individual subscribers on a case-by-case basis, in consultation with the subscriber. Cable system operators are required to make a good faith effort to provide subscribers with the amount and types of special equipment needed to resolve their individual compatibility problems.

(d) Cable operators shall provide such equipment at the request of individual subscribers and may charge for purchase or lease of the equipment and its installation in accordance with the provisions of the rate regulation rules for customer premises equipment used to receive the basic service tier, as set forth in §76.923. Notwithstanding the required annual offering, cable operators shall respond to subscriber requests for special equipment for reception of multiple signals that are made at any time.

47 CFR Section 76.1622 states that Cable system operators shall provide a consumer education program on compatibility matters to their subscribers in writing, as follows:

(a) The consumer information program shall be provided to subscribers at the time they first subscribe and at least once a year thereafter. Cable operators may choose the time and means by which they comply with the annual consumer information requirement. This requirement may be satisfied by a once-a-year mailing to all subscribers. The information may be included in one of the cable system's regular subscriber billings.

(b) The consumer information program shall include the following information:

(1) Cable system operators shall inform their subscribers that some models of TV receivers and videocassette recorders may not be able to receive all of the channels offered by the cable system when connected directly to the cable system. In conjunction with this information, cable system operators shall briefly explain, the types of channel compatibility problems that could occur if subscribers connected their equipment directly to the cable system and offer suggestions for resolving those problems. Such suggestions could include, for example, the use of a cable system terminal device such as a set-top channel converter. Cable system operators shall also indicate that channel compatibility problems associated with reception of programming that is not scrambled or encrypted

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programming could be resolved through use of simple converter devices without descrambling or decryption capabilities that can be obtained from either the cable system or a third party retail vendor.

(2) In cases where service is received through a cable system terminal device, cable system operators shall indicate that subscribers may not be able to use special features and functions of their TV receivers and videocassette recorders, including features that allow the subscriber to: view a program on one channel while simultaneously recording a program on another channel; record two or more consecutive programs that appear on different channels; and, use advanced picture generation and display features such as "Picture-in-Picture," channel review and other functions that necessitate channel selection by the consumer device.

(3) In cases where cable system operators offer remote control capability with cable system terminal devices and other customer premises equipment that is provided to subscribers, they shall advise their subscribers that remote control units that are compatible with that equipment may be obtained from other sources, such as retail outlets. Cable system operators shall also provide a representative list of the models of remote control units currently available from retailers that are compatible with the customer premises equipment they employ. Cable system operators are required to make a good faith effort in compiling this list and will not be liable for inadvertent omissions. This list shall be current as of no more than six months before the date the consumer education program is distributed to subscribers. Cable operators are also required to encourage subscribers to contact the cable operator to inquire about whether a particular remote control unit the subscriber might be considering for purchase would be compatible with the subscriber's customer premises equipment.

The Commission is requesting an extension of this information collection in order to receive the full three year approval/clearance from OMB.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in Section 4(i) and Section 632 of the Communications Act of 1934, as amended.

2. The Commission has set forth these disclosure requirements for the purpose of consumer protection, to inform subscribers of compatibility matters, and notify subscribers of cable operators' requests to waive the prohibition on signal encryption.

3. Use of information technology is not feasible for this collection.

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4. This agency does not impose a similar disclosure requirement on the respondents.
5. This information collection requirement does not have a significant impact on a substantial number of small businesses.
6. If the Commission did not require these disclosures of information, subscribers would not be aware of their respective cable operator's request for waiver of the signal encryption prohibition and would not be aware of important equipment compatibility and program information.
7. There are no special circumstances associated with this collection of information.
8. The Commission published a Notice (75 FR 69437) in the *Federal Register* on November 12, 2010 seeking comments on the information collection requirements contained in this supporting statement. No comments were received from the public.
9. There will be no payment or gifts given to respondents.
10. There is no need for confidentiality with this collection of information.
11. These disclosures of information do not address any matters of a sensitive nature.
12. Regarding Section 76.630(a), we estimate that of the 8,250 cable operators in the US, only five (5) waiver requests will be filed with the Commission each year. In addition, cable operators are required to notify subscribers by mail of waiver requests. The average burden is three (3) hours to prepare each waiver request and one (1) hour to notify each subscriber and the Commission.

$$\begin{aligned} 5 \text{ waiver requests} \times 3 \text{ hours to prepare each request} &= 15 \text{ hours} \\ 5 \text{ cable operators} \times 50,000 \text{ subscribers} \times 1 \text{ hour for notification activity} &= 250,000 \text{ hours} \end{aligned}$$

Regarding Section 76.1621, we estimate that there are approximately 8,250 cable television systems in the nation, and the cable system operators will use scrambling, encryption or similar techniques to receive various cable programming. Providing this information, the average annual burden for cable systems is estimated to be one hour per system annually to put forth the text for offers to supply their subscribers with special equipment that will enable the simultaneous reception of multiple signals. At this time, much of the text for the offer of special

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equipment has already been developed in past years. Operators are assumed to make these offers as an addendum to, or as part of, regular subscriber billings or even as part of pre-printed information on the billing, thereby incurring no significant paperwork burden.

8,250 cable operators x 1 hour for text for offer of special equipment/system/annum =  
8,250 hours

Regarding Section 76.1622, based on Commission records, there are approximately 8,250 cable television systems in the nation. At this time, each system's consumer education program is assumed to already exist and therefore need only be updated. The average burden for cable systems to update their existing information is estimated to be one hour per system each year. Operators are assumed to disclose this information as an addendum to, or as part of, regular subscriber billings or even as part of pre-printed information on the billing, thereby incurring no significant paperwork burden.

8,250 cable systems x 1 hour for information updates/cable system/annum = 8,250 hours

**Total Number of Respondents: 8,250 Cable Television Systems**

**Total Number of Responses:**

5 - Waiver requests (under Section 76.630(a))  
250,000 - Notice to subscribers (under Section 76.630(a))  
8,250 - Notices from cable operators (under Section 76.1621)  
+8,250 - Notices from cable operators (under Section 76.1622)  
**266,505 (responses)**

**Total Annual Burden Hours:**

15 hours (under Section 76.630(a))  
250,000 hours (under Section 76.630(a))  
8,250 hours (under Section 76.1621)  
+8,250 hours (under Section 76.1622)  
**266,515 hours**

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**Total "In-house costs":**

Regarding Section 76.630(a), we estimate that in-house attorneys paid @ \$300 per hour will write the waiver requests. We estimate an average hourly wage of \$18.00 per hour for individuals tasked with the notification requirements.

5 waiver requests x 3 hours @ \$300 per hour = \$4,500  
250,000 subscribers x 1 hour @ \$18 per hour = \$4,500,000

Regarding Section 76.1621, we estimate that staff paid @ \$18 per hour will update text for offers of special equipment.

8,250 cable systems x 1 hour /update @ \$18 = \$148,500

Regarding Section 76.1622, we estimate that staff paid @ \$18 per hour will draft or update consumer education information text.

8,250 cable systems x 1 hour/draft or update @ \$18 per hour = \$148,500.

**Total in-house costs:**

\$ 4,500 (under Section 76.630(a))  
\$4,500,000 (under Section 76.630(a))  
\$ 148,500 (under Section 76.1621)  
+ \$ 148,500 (under Section 76.1622)  
**\$4,801,500**

These estimates are based on Commission staff's knowledge and familiarity with the availability of the data required.

13. Annual Cost Burden.

a. Capital or start-up costs: None.

b. Total operation and maintenance costs: Section 76.630 waiver requests are subject to a filing fee of \$1,160.

5 waiver requests x \$1,160 = **\$5,800**

Disclosure requirements pursuant to sections 76.630, 76.1621 and 76.1622 are assumed to entail no additional cost to respondents because information can be pre-printed on, or attached as an addendum to, regular subscriber billings.

c. Total estimated annual cost to respondents = **\$5,800**

14. Cost to the Federal Government:

Regarding Section 76.630(a), we estimate that the waiver requests and associated materials will take approximately six hours for Commission attorneys paid at the GS-14, step 5 grade level (\$57.13 per hour) to review and process the waivers, and at the GS-5, step 5 grade level (\$18.50 per hour) to process the notifications received by the Commission.

5 waiver requests x 6 hours/waiver request x \$57.13 per hour =	\$ 1,713.90
250,000 notifications received x 1 hour/notification x \$18.50 per hour =	<u>\$4,625,000.00</u>
<b>Total Cost to the Federal Government =</b>	<b>\$4,626,713.90</b>

Sections 76.1621 and 76.1622 entail no additional cost to the Federal Government.

15. There are no program changes or adjustments to this information collection.

16. The results of this information collection will not be published for statistical use.

17. We do not seek approval to not display the expiration date for OMB approval of this information collection.

18. There are no other exceptions to the Certification Statement.

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**B. Collections of Information Employing Statistical Methods**

No statistical methods are employed.