

Annual Survey of Cable Industry Prices, FCC Form 333

SUPPORTING STATEMENT

Part A. JUSTIFICATION

1. Section 623(k) of *The Communications Act of 1934*, as amended by the Cable Television Consumer Protection Act of 1992,¹ and RAY BAUM'S Act of 2018,² requires the Federal Communications Commission (Commission) to publish biennially a statistical *Report on Cable Industry Prices* (Report),³ on the average rates (prices) cable operators (operators) charge for basic service and other programming services including lease of equipment.⁴ The statute requires the Commission to compare the changes in prices of operators subject to effective competition to the prices of operators not subject to effective competition, under a statutorily defined standard. The statute also requires the Commission to report on retransmission consent fees which cable operators pay to television broadcast stations.⁵

To meet these Congressional directives, the Commission conducts a biennial *Survey of Cable Industry Prices* (Survey). FCC Form 333 is the survey instrument (questionnaire) for collecting the information to prepare the Report. To implement the Survey, the Commission releases an *Order* directing a random sample of cable operators to complete the Form-333.⁶ Consistent with requirements of the *Act*, Form 333 collects data on the basic service, expanded basic service, and the next most subscribed service. To calculate annual changes, Form 333 requests prices, number of channels, and other data for January 1 of the survey year and preceding year.

¹ Section 623(k), adopted as Section 3(k) of the Cable Act, Pub. L. No. 102-385, 106 Stat. 1460, codified at 47 U.S.C. § 543(k). <https://www.govinfo.gov/content/pkg/USCODE-2010-title47/pdf/USCODE-2010-title47-chap5-subchapV-A-partIII-sec543.pdf>.

² RAY BAUM'S Act), Pub. L. No. 115-141, 132 Stat. 1087 (codified at 47 U.S.C. § 163) (2018) (RAY BAUM'S Act), which amended Section 13 of the Communications Act of 1934.

³ The most recent Report was published in the Commission's *2018 Communications Marketplace Report*, GN Docket No. 18-231 et al., Report, 33 FCC Rcd 12558 (2018) at Appendix B-1. <https://docs.fcc.gov/public/attachments/FCC-18-181A7.pdf>.

⁴ A cable operator (operator) is an entity operating as a multichannel video programming distributor that makes available for purchase, by subscribers or customers, multiple channels of video programming, delivered over a cable system registered with the Commission. 47 U.S.C. § 522(5). Service refers to a cable service for which a separate rate applies. 47 U.S.C. § 522(17).

⁵ 47 U.S.C. § 543(k)(2). <https://www.law.cornell.edu/uscode/text/47/543>.

⁶ *Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Statistical Report on Average Prices for Basic Service, Cable Programming Services, and Equipment*, MM Docket No. 92-266, Order, 35 FCC Rcd 2871 (4) (2020). <https://www.fcc.gov/document/fcc-initiates-cable-price-survey-responses-due-may-15-2020>

Annual Survey of Cable Industry Prices, FCC Form 333**Revised Information Collection Requirements:**

This filing includes adjustments and changes, based on revisions to the statute, industry changes, and experience with the recent 2020 Survey, including communications with industry.

Program Changes*Change from annual to biennial survey*

As a result of a change in the statute, the Survey is now conducted biennially, whereas before the Survey was conducted each year.⁷ To estimate industry burden, we will convert the biennial calculation to an annual calculation by dividing the biennial burden by two.

Change to the expected survey responses

As a result of a change in the statutory definition of effective competition,⁸ the survey sample size and number of expected responses are lower. The new statutory definition reduces the number of survey strata from which we must select a sample. We are lowering the number of expected survey responses from 728 to 524 responses. Sample size was calculated using a standard sample size formula.

Program Adjustments*Reporting of high definition (HD) service*

Form 333 will ask all respondents to report HD services. In the past, we did not specify that respondents report HD services, however, about 85% of subscribers have HD service. We are modifying instructions and adding yes/no questions for the small number of operators that only offer standard definition (SD) service.

Programming prices and equipment fees

We are merging questions on equipment fees that were in a separate section of Form 333 into the section on programming rates (Section A) to enhance the order of questions. Finally, we no longer ask if the equipment has DVR capability as this information is of limited value.

Reporting of programming service rate

The instructions now explicitly specify itemized fees to include in the programming rate. There is a trend toward operators dividing a single programming rate into separate fees. To capture the cost of programming to consumers, we must instruct operators to report all required fees.

Reporting of service channel counts

For cable services, Form 333 no longer asks for HD and SD channel counts, and instead asks for unique channel counts; *i.e.*, if a channel is available in SD and HD it counts as one channel instead of two channels. The number of unique channels is likely most important to how consumers value a service.

⁷ *Supra* note 2. The RAY BAUM'S Act incorporated the Report into the Commission's biennial *Communications Marketplace Report*. 47 U.S.C. § 402(e) (cross-referencing 47 U.S.C. § 163).

⁸ *Amendment to the Commission's Rules Concerning Effective Competition, Implementation of Section 111 of the STELA Reauthorization Act*, MB Docket No. 15-53, Report and Order, 30 FCC Rcd 6574 (2015).

Annual Survey of Cable Industry Prices, FCC Form 333*Reporting of service number of subscribers*

Form 333 no longer asks for the number of subscribers for each service tier. We find these subscriber counts of limited value and they are inconsistent because operators may not maintain records at the community level of our sample.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act. This information collection is consistent with the Commission's information quality guidelines.⁹

Statutory authority for this information collection is in Sections 4(i) and 623(k) of the Communications Act of 1934, as amended.

2. The data collected is used by the Commission to monitor cable prices consistent with the Congressional directives. The Form 333 questionnaire is the basis of the survey results that are published in the Report on cable industry prices and delivered to Congress. The Report and data are also used in Commission proceedings, and by the public and government agencies.

3. To reduce burden and facilitate processing of the survey, the Commission makes the survey questionnaire available to respondents in electronic format and respondents complete the survey online. Paper versions of the survey are no longer furnished.

4. This Survey, which requires information on a community basis, constitutes the only statistically valid dataset that can be used to comply with the statutory requirement.

5. Although small cable operators are among the sample of respondents, this collection of information does not have a significant impact on a substantial number of small businesses. The information to be collected is readily available to all cable operators, regardless of size, in the normal course of business.

6. If this collection of information were not conducted, neither the Commission nor Congress would have data available that would enable them to assess the reasonableness of cable rates charged by cable operators who do not face effective competition. The data collected allows the Commission to compare prices charged by operators who face effective competition and operators who do not face effective competition. Also, the Commission would be out of compliance with Section 623(k) of the Communications Act of 1934, as amended.

7. There are no special circumstances associated with this collection of information.

8. The Commission published a Notice in the Federal Register (**85 FR 85638**) on **December 29, 2020**, seeking comment on the information collection requirements contained in this collection. No comments were received from the public.

The Commission is regularly in contact with cable operator respondents, and in the process, obtains their views on the availability of data, clarity of instructions, reporting format, and the data elements to be recorded, disclosed, or reported.

⁹ *Implementation of Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Pursuant to Section 515 of Public Law No. 105-554, FCC-02-277, Information Quality Guidelines, 17 FCC Rcd 19890 (26) (2002); FCC Updates Information Quality Guidelines in Accordance with Data Quality Act, DA 19-709, Public Notice, 34 FCC Rcd 6376 (8) (OEA, OMB 2019)..*

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9. There will be no payments or gifts to the respondents.
10. If individual respondents to this survey wish to request confidential treatment of any data provided in this survey, they can do so upon written request, in accordance with Sections 0.457 and 0.459 of the Commission's rules. To receive confidential treatment of their data, respondents must describe the specific information they wish to protect and provide an explanation of why such confidential treatment is appropriate. If a respondent submits a request for confidentiality, the Commission reviews the request and makes a determination.
11. This information collection does not address matters of a sensitive nature.
12. The survey selects a sample from the 35,000 cable communities registered with the Commission. A cable community represents one operator (the respondent) and one community the operator serves. Most operators in the sample have one community selected and therefore file one survey response. The largest operators have multiple communities in the sample and complete a survey questionnaire for each of these selections. However, operators who file multiple responses gain administrative efficiency that lowers the average time to complete the Form 333. For an operator, the chance of being a sample selection is proportional to its share of cable subscribers nationwide. Therefore, a large operator has a higher probability of being sampled than a small operator. The sample includes a small percentage of the small cable operators and it's unlikely the same small operator will be selected in successive surveys.

The Commission estimates that information will be collected from a total of **70 respondents**.

The Commission estimates that the average burden to respondents for gathering data, completing and filing a single Form 333 questionnaire is **7 hours per response**.

The survey sample size equals 540 cable communities. Based on the response rate for previous surveys, we estimate that 97% of the 540 requested responses will be filed, giving a total of 524 responses. The frequency of response equals 524 responses / 70 respondents = 7.5 responses. **Total number of survey responses = 524 responses.**

The number of responses is for one survey conducted in one year. However, our survey is conducted on a biennial basis. Therefore, to get the annual burden hours, we divide the burden hours by 2. In summary, the annual burden hours equal 7 hours x 524 responses / 2 years.

Total number of annual burden hours = 1,834 hours.

We assume cable operators will use in-house professional staff, paid an average hourly wage of \$77.49 (equivalent to GS-15, step 5 including Locality Pay Area of Washington-Baltimore-Arlington, DC-MD-VA-WV-PA). **Total annual in-house costs = 524 responses x 7 hours x \$78.27 per hour / 2 years = \$143,547.**

Total Number of Respondents: 70 respondents.

Total Annual Responses: 524 responses.

Total Annual Burden Hours: 1,834 hours.

Total annual in-house costs: \$143,547.

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13. There is no additional cost to respondents above the cost reported in question 12.

14. **Cost to the Federal Government:** We estimate based on our experience in preparing the survey collection in previous years. We assume Commission staff are paid at an average hourly wage of \$78.27 (equivalent to GS-15, step 5 including the Locality Pay Area of Washington-Baltimore-Arlington, DC-MD-VA-WV-PA). Operating hours consist of (1) Survey preparation (developing the sample, testing the online questionnaire software, etc.), (2) processing submitted questionnaires, (3) conducting quality control measures, and (4) analyzing the information collection. We include hours in discussions with survey respondents throughout the process. We also include hours spent researching and assessing potential revisions between Paperwork Reduction Act filings.

Operating Cost: 780 hours x \$78.27 / 2 years = **\$30,525**

Overhead Cost (using factor of 30%) = **\$9,158**

Total annual cost to Federal Government = \$30,525 + \$9,158 = \$39,683

15. The Commission is reporting **program changes/decreases** to this information collection. There is a decrease in the total number of survey responses from 728 to 524 responses per survey and a decrease in the total number of annual burden hours from 5,096 to 1,834 hours, due to revisions to the statute.¹⁰

There are no **program adjustments** to this collection.

16. The Commission will begin its next survey sample using Form 333 in April 2022, and will publish the Report, based on the results of the survey, at the end of year 2022. The Commission is required by Section 623(k) of the *Act* to publish a 2022 Report. This report will be published in the Federal Register and will be available on the Commission's website.

17. The expiration date will be displayed on the document.

18. There are no exceptions to the Certification Statement.

¹⁰ These changes to the statute are summarized *supra* in Item 1 under *Revised Information Collection Requirements*. We are collecting fewer responses per survey and conducted a biennial survey in lieu of an annual survey. We are also reporting a different number of respondents; however, only as a result of redefining respondent to mean a parent cable operator rather than the operator in each cable community. The estimate of 70 parent respondents is unchanged.