Satellite And Cable

Background

To begin to comprehend the issues and the many laws and regulations related to satellite and cable industries in the United States, one must first understand a bit about the Federal Communications Commission (FCC). Congress created the FCC when it enacted the Communications Act of 1934. The Act was intended in part to help regulate interstate and foreign commerce in communications via wire and radio to help make available a rapid, efficient, nationwide, and worldwide wire and radio communications service. Note that the term "radio" has been interpreted in its most inclusive sense to also apply to television. The FCC has grown into a very large governmental agency, and its functions have expanded to include oversight of the satellite and cable telecommunications media. Questions about satellite or cable laws or regulations are most likely addressed by the FCC.

The FCC

The FCC has five commissioners, appointed by the president and confirmed by the Senate, who oversee the operations of the agency. There are various operating bureaus under the commissioners, one of which is the Mass Media Bureau. Different bureaus within the FCC regulate different aspects of telecommunications media. For example, the Mass Media Bureau regulates amplitude and frequency modulation, low-power television, and direct broadcast satellite. The Common Carrier Bureau regulates telephone and cable operations.

The FCC licenses new broadcast stations based on the needs of communities in a given region and on technical engineering considerations that prevent interference between stations. The FCC must approve a host of activities by broadcasters, including allocations of new stations and applications to build, modify, renew, or sell a station. When the FCC considers an application for any of these activities, it tries to determine if granting the request serves the PUBLIC INTEREST. This kind of review is required by the Communications Act.

The FCC and Censorship

The FCC expects stations to manifest an awareness of the important problems or issues in the communities they serve by presenting programming and/or announcements about local issues. In the end, though, it is broadcasters and not the FCC (or any other government agency) who are responsible for selecting all the content of their programs. The Communications Act and parts of the U.S. Constitution prohibit the FCC from censoring broadcast content. These considerations limit the FCC's role in overseeing the content of programming. But the FCC is permitted to levy fines on a station or revoke its license if the station has violated any of the following three considerations:

1. Restrictions on indecent programming
2. Limits on the number of commercials aired during children's programming
3. Rules involving candidates for public office

Other FCC Enforcement Functions

The FCC's authority differs greatly regarding standard broadcast television stations and other types of television channels such as cable television. Cable television channels are available by subscription only; they cannot be received over the air. Consequently, cable operators are subject to a different set of FCC rules than broadcast television stations. A broadcast television station on a cable system is regulated as a broadcast station.

The FCC enforces regulations designed to promote competition among cable companies, satellite companies, and other firms offering video programming services to the general public. This competition-promotion function includes a variety of issues such as the following:

- Commercial availability of set-top boxes
- Commercial leased access
- Mandatory carriage of television broadcast signals
- Open video systems
- Over-the-air reception devices
- Program access
- The accessibility of closed captioning and video description on television programming

More specific information about these functions can be found on the FCC's website, http://www.fcc.gov.

Problems with Cable Operators

Basically, decisions concerning what services to offer and most other programming decisions are within the discretion of the cable operator. The FCC is powerless to address most complaints against cable companies other than specific violations concerning indecent programming, the limit on the number of commercials aired during children's programming, and the rules involving candidates for public office.

Interference is occasionally a problem for cable subscribers. One common source of interference is home electronics equipment. To receive the clearest signals, the equipment must be adequately designed with circuitry or filtering technologies that reject unwanted signals emitted from nearby transmitters. The FCC recommends that users contact the manufacturer and/or the store where the equipment was purchased to resolve the interference problem.

If users have a complaint about cable rates or poor service, they should direct their communication to their local franchise authority. A franchising authority is the municipal, county, or other government organization that regulates certain aspects of the cable television industry at the local or state level. There are approximately 30,000 franchising authorities in the United States. The name of the franchising authority is often found on the front or back of a cable bill. If the name of the franchising authority is not on the bill, users can contact their cable company or their local town or city hall.

Signal Bleed

The cable television industry goes to great lengths to protect its programs from theft. Theft most often occurs when consumers are able to receive content over cable channels for which they have not paid in their subscription account. To block these signals, cable television firms encrypt or scramble their signals so that the subscriber receives only the services for which they have paid. Occasionally, some scrambling techniques employed by cable companies do not block the entire audio and video signals. "Signal bleed" occurs when consumers are able to view such inadequately blocked broadcast material. Signal bleed may cause concern for parents because it may permit children in homes with a cable subscription to view programming that contains objectionable material.

Blocking Programs or Channels

Cable television operators determine the channels that are available on their cable systems. To help increase the number of subscribers, a cable operator will select channels that appear likely to attract a broad spectrum of viewers. Because of this, a cable subscriber may receive programs as part of a programming package that he or she does not wish to view.

Federal law now requires broadcasters of most programming available on television to alert viewers if a program contains violence, inappropriate language, or other material that a viewer may find offensive. Generally, the broadcaster and not the cable operator is responsible for the programming that is shown on a particular channel. The cable operator usually does not have the right to prevent the transmission of a program containing objectionable material. Individual subscribers, however, have two important tools that they may use to prevent programs or channels from being viewed on their television sets.

1. Lockboxes. These are devices a subscriber may buy or LEASE from the subscriber's cable company. They are also available from some retail electronic stores. A lock-box can literally lock particular channels so that the programming cannot be viewed.
2. V-chip. A V-chip is circuitry in a television capable of identifying governmental ratings and blocking the programming that an individual finds inappropriate. Depending on its technical specifications, the V-chip may block individual programs, or it may be used to block one or more channels entirely. All television screens that are 13-inches or larger and that are manufactured or imported for use in the United States are required by law to be equipped with the V-chip. The law required manufacturers to produce 50% of their televisions with the V-chip by 1999, and the remaining 50% were to contain the v-chip by 2000. Televisions not equipped with a V-chip may be fitted with one.

The Satellite Home Viewer Improvement Act of 1999

The Satellite Home Viewer Improvement Act of 1999 (SHVIA) provides significant modifications to the Satellite Home Viewer Act of 1988, the Communications Act, and the U.S. COPYRIGHT Act. SHVIA was enacted to promote competition among multi-channel video programming distributors. These include satellite companies and cable television operators. It was also intended to encourage an increase in programming choices.

SHVIA allows satellite companies to broadcast local TV signals to their subscribers who live in the local TV station's market. SHVIA also allows satellite companies to provide "distant" network broadcast stations to certain eligible satellite subscribers. The satellite company has the option of providing local TV signals into a local TV station's market, but it does not have to do so. Some satellite companies have opted to provide this service in some viewing markets. Users can contact their satellite company to determine whether and when the service is available in their market.

Satellite Antennas

Generally, users may install a satellite dish that is 1 meter (39.37 inches) or less on their own property or property on which they have the exclusive use, such as leased or rented property. In Section 207 of the Telecommunications Act of 1996, Congress adopted the Over-the-Air Reception Devices Rule. This rule applies to governmental and nongovernmental restrictions imposed on a consumer's ability to receive video programming signals from direct broadcast satellites, wireless cable providers, and television broadcast stations. The rule outlaws restrictions intended to prevent a consumer from installing, maintaining, or using an antenna. The rule applies to a broad range of potential regulatory bodies, laws, or regulations:

- Building regulations
- Condominium or cooperative association restrictions
- Homeowner association rules
- Land-use regulations
- Lease restrictions
- Other restrictions on property within the exclusive use or control of the antenna user where the user has an ownership or leasehold interest in the property
- Private covenants
- Zoning regulations

There is a three-part test to determine whether a particular restriction is illegal under the rule. It must:

1. Unreasonably delay or prevent the use of the antenna
2. Unreasonably increases the cost of the antenna or service
3. Prevent a person from receiving or transmitting an acceptable quality signal

The rule does not prohibit restrictions based on legitimate safety concerns, nor does it prohibit restrictions intended to preserve designated or eligible historic or prehistoric properties. In such cases, the restriction must be no more burdensome than necessary to accomplish its safety or preservation purposes.

Some Activities Not Regulated by the FCC

The FCC licenses individual stations only; it does not license radio or television networks, which are organizations composed of multiple stations. Examples of networks include ABC, NBC, CBS, and Fox. The FCC does license the owners of particular stations within those networks. The FCC does not regulate information provided over the Internet.

The FCC cannot regulate closed-circuit radio or television, which means that it cannot control what is carried over closed-circuit systems in, for example, department stores, airports, or casinos. Additionally, the FCC has no authority over the following:

- Bullfights
- Exhibitions
- Promoters of prizefights
- Rodeos
- Sports teams or leagues

Arrangements for broadcasting these events and other exhibitions are made privately between owners of the rights (such as sports teams or leagues) and the stations and/or network involved.

Finally, the FCC cannot regulate:

- Companies that measure the size and other characteristics of radio and TV audiences
- Music-licensing organizations
- News-gathering organizations (Like AP or UPI) that provide stations with news and comment
- Record companies
- The manufacture and distribution of audio and video recordings
- The production, distribution and rating of motion pictures
- The publishing of newspapers, books, or other printed material

Additional Resources

American Broadcast Regulation and the First Amendment: Another Look. Tillinghast, Charles H., Iowa State University Press, 2000.

The Cable and Satellite Television Industries. Parsons, Patrick R., Robert M. Frieden, and Rob Frieden, Allyn & Bacon, 1997.

"Consumer & Governmental Affairs Bureau." Available at http://www.fcc.gov/cgb/consumers.html. Federal Communications Commission, 2002.

The First Amendment and the Fifth Estate: Regulation of Electronic Mass Media. 5th ed., Carter, T. Barton, Marc A. Franklin, and Jay B. Wright. Foundation Press, 1999.

Satellite Communications Regulations in the Early 21st Century: Changes for a New Era. Salin, Patrick-André, M. Nijhoff, 2000.

Selling the Air: A Critique of the Policy of Commercial Broadcasting in the United States. Streeter, Thomas, University of Chicago Press, 1996.

Telecommunications Law and Policy. Benjamin, Stuart Minor, Douglas Gary Lichtman, and Howard A. Shelanski, Carolina Academic Press, 2001.

Video Scrambling & Descrambling for Satellite & Cable TV. Graf, Rudolf F., and William Sheets, Newnes, 1998.

Organizations

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