Federal Communications Commission
Washington, D.C. 20554

April 18, 2013

DA 13-793

Small Entity Compliance Guide

Basic Service Tier Encryption: Implementation of the Cable Television Consumer Protection and Competition Act of 1992

MB Docket No. 11-169
FCC 12-126

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 1-866-418-0232
fccinfo@fcc.gov

OBJECTIVES OF THE PROCEEDING

In the *Report and Order* in MB Docket No. 11-169, the Commission adopted rules to allow cable operators the option to voluntarily encrypt (as defined in the compliance requirements section, below), so long as they offer only digital cable service and comply with the following requisite regulatory conditions:

- Inform affected subscribers (as identified on the chart on page 5 below); and
- Make available specified equipment choices during a transitory period (as identified on the chart on page 5 below).

BENEFITS

Encryption of all-digital cable service will allow cable operators to activate and/or deactivate cable service remotely, thus relieving many consumers of the need to wait at home to receive a cable technician when they sign up for or cancel cable service, or expand service to an existing cable connection in their home.

In addition, encryption will reduce service theft by ensuring that only paying subscribers have decryption equipment. Encryption could reduce cable rates and reduce the theft that often degrades the quality of cable service received by paying subscribers. Encryption also will reduce the number of service calls necessary for manual installations and disconnections, which may have beneficial effects on vehicle traffic and the environment.

COMPLIANCE REQUIREMENTS

1. **Background Information: Definitions**

- CableCARD—decrypts the cable services; must be leased from the cable provider either as a part of a leased set-top box or separately for use in a compatible retail television or set-top box.
- Basic service encryption eligibility—all-digital systems, in which no television signals are provided using the NTSC (National Television System Committee) system, and instead all signals are sent using QAM (Quadrature Amplitude Modulation).
- Digital Transport Adapter (DTA)—a one-way, non-recording set-top box. The two main functions of a DTA are (i) to convert digital cable signals into a signal that a consumer's television can receive and (ii) to decrypt/unscramble encrypted cable programming.
- Encryption—scrambling or other methods of protecting cable signals from theft.

2. **Obligations of Cable Operators which encrypt their basic service tier**

A. General requirements

Cable operators, which choose to encrypt their basic service tier, are required to carry out:

Consumer protections notifications

- (i) Prior to the date of encryption commencement, notify their subscribers about the upcoming encryption; (ii) during the transitional period, offer subscribers free

devices that subscribers can use to decrypt programming; and (iii) notify subscribers that the free devices are available.

- Between 30 to 60 days before the end of the free device transition period, notify their subscribers (i) about the end of the transition period; and (ii) about the new monthly charges to be incurred after the end of the transition period.

Required offerings of equipment to the identified subscriber classes

- Subscribers (as specified below) must be offered, without charge, devices that can decrypt encrypted signals (such as a set-top box, DTA, or CableCARD) during the transitional period specified below. After this transitional period, cable operators may charge the subscribers to lease this equipment.

B. Prior to encryption, Cable Operator notification obligations

- **At least 30 days before the cable operator's basic tier encryption commencement date, the cable operator must notify subscribers about:**
  - The cable operator's basic tier encryption, and commencement date; and
  - Free device(s) available through the cable operator during the stated transitional period (at least 120 days after the start of basic service tier encryption).
- **Cable operators must use the following message** in a bill insert or other reasonable methods as they deem fit to communicate with the subscribers:

On (DATE), (NAME OF CABLE OPERATOR) will start encrypting (INSERT NAME OF CABLE BASIC SERVICE TIER OFFERING) on your cable system. If you have a set-top box, digital transport adapter (DTA), or a retail CableCARD device connected to each of your TVs, you will be unaffected by this change. However, if you are currently receiving (INSERT NAME OF CABLE BASIC SERVICE TIER OFFERING) on any TV without equipment supplied by (NAME OF CABLE OPERATOR), you will lose the ability to view any channels on that TV.

If you are affected, you should contact (NAME OF CABLE OPERATOR) to arrange for the equipment you need to continue receiving your services. In such case, you are entitled to receive equipment at no additional charge or service fee for a limited period of time. The number and type of devices you are entitled to receive and for how long will vary depending on your situation. If you are a (INSERT NAME OF CABLE BASIC SERVICE TIER OFFERING) customer and receive the service on your TV without (NAME OF CABLE OPERATOR)-supplied equipment, you are entitled to up to two devices for two years (five years if you also receive Medicaid). If you subscribe to a higher level of service and receive (INSERT NAME OF CABLE BASIC SERVICE TIER OFFERING) on a secondary TV without (NAME OF CABLE OPERATOR)-supplied equipment, you are entitled to one device for one year.

You can learn more about this equipment offer and eligibility at (WEBPAGE ADDRESS) or by calling (PHONE NUMBER). To qualify for any equipment at no additional charge or service fee, you must request the equipment between (DATE THAT IS 30 DAYS BEFORE ENCRYPTION) and (DATE THAT IS 120 DAYS AFTER ENCRYPTION) and satisfy all other eligibility requirements.

C. Prior to end of free-device transition period, Cable Operator notification obligations owed to consumers

- **Between 30 to 60 days before the end of the free device transitional period,** a cable operator that encrypts must notify subscribers that have taken advantage of the free-device transitional period that:
  - The transitional period is ending;
  - There will be a new monthly charge amount, and that on a specific date the subscriber will be charged for the continued use of the cable operator's equipment (originally used during the transition period); and
  - The name and address of the local franchising authority is as specified.
- **Cable operators must use the following message** in a bill insert or other reasonable methods as they deem fit to communicate with the subscribers:

You currently receive equipment necessary to descramble or decrypt the basic service tier signals (either a set-top box or CableCARD) free of charge. Effective with the (MONTH/YEAR) billing cycle, (NAME OF CABLE OPERATOR) will begin charging you for the equipment you received to access (INSERT NAME OF CABLE BASIC SERVICE TIER OFFERING) when (NAME OF CABLE OPERATOR) started encrypting those channels on your cable system. The monthly charge for the (TYPE OF DEVICE) will be (AMOUNT OF CHARGE).

D. Cable operator obligation requirements for offering equipment to consumers during the transitional period

- **At the start of basic service tier encryption**, a cable operator must offer free device(s) for the time period specified, to each specified subscriber, as described below:

At the time the cable operator's basic service tier encryption starts, if a cable subscriber subscribes:	Then the cable operator must:

Only to the basic service tier, • and does not use a set-top box or CableCARD, • and the subscriber is a Medicaid recipient[1] . . .	Give that subscriber the choice between a set-top box or CableCARD: • on up to two television sets without any additional charge or service fee related to the equipment, • for five years from the date the cable operator begins to encrypt.
Only to the basic service tier, • and does not have a set-top box or CableCARD . . .	Give that subscriber the choice between a set-top box or CableCARD: • on up to two television sets without any additional charge or service fee related to the equipment, • for two years from the date the cable operator begins to encrypt.
To a level of service other than basic service tier, • but has a second television set to access only the basic service tier digitally, without the use of a set-top box or CableCARD . . .	Give that subscriber the choice between a set-top box or CableCARD: • on one television set without any additional charge or service fee related to the equipment, • for one year from the date the cable operator begins to encrypt.

3. **Cable operators that do not have all-digital systems may seek a waiver of the rule prohibiting scrambling of channels on the basic tier of service in cases of extreme service theft**

   A. Actions required of cable operators which seek waiver–in general

   - Demonstrate a substantial problem with theft of basic tier service; and
   - Notify subscribers of the request for waiver – in writing, by mail, no later than 30 calendar days after the date the cable operator filed the request for a waiver with the FCC; and
   - Notify the FCC, in writing, of the subscriber notification date as soon as possible.

   B. Cable operators waiver request requirements – subscriber notification

   - 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

[1] Medicaid recipients receive from their respective home state authority a readily identifiable card identifying the individual as a Medicaid recipient. Cable operators may use this identification to verify that the subscriber is a Medicaid recipient.

on the basic tier of service. 47 CFR § 76.630(a). The request for waiver states (A BRIEF SUMMARY OF THE WAIVER REQUEST). A copy of the request for waiver shall be available 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.

RECORDKEEPING

- Cable operators, prior to encryption, must notify their subscribers about offers of free equipment associated with encryption. Prior to the end of the free equipment period associated with encryption, cable operators must notify their subscribers subject to new additional monthly charges.

IMPACT ON SMALL BUSINESS

- The *Report and Order* allows cable operators to choose whether to encrypt, so long as the regulatory conditions are met as outlined. If a cable operator chooses to encrypt, it must provide subscribers with Commission-supplied notifications. Otherwise, no new or modified information collection or filing burdens subject to the PRA are imposed

- Because the decision to encrypt is voluntary, cable operators who wish to maintain the *status quo* do not need to take any steps to comply with the *Report and Order*.

- A cable operator that wishes to encrypt may do so if (i) it offers only all-digital service; (ii) it offers its subscribers equipment without charge for a limited time as outlined above; and (iii) it notifies its subscribers of the equipment offers as provided above.

INTERNET LINKS

Report and Order
http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db1018/FCC-12-126A1.pdf (PDF)
http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A1.doc (WORD)
http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A1.txt (TEXT)
http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A1_Rcd.pdf (FCC Record)

Erratum

http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db1018/DOC-316898A1.pdf

Chairman and Commissioner Statements
http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A2.pdf
http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A2.doc
http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A2.txt

http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A3.pdf
http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A3.doc
http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A3.txt

http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A4.pdf
http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A4.doc
http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-12-126A4.txt