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47 U.S. Code § 542 - Franchise fees

U.S. Code Notes Authorities (CFR)

(a) PAYMENT UNDER TERMS OF FRANCHISE

Subject to the limitation of subsection (b), any cable operator may be required under the terms of any franchise to pay a franchise fee.

(b) AMOUNT OF FEES PER ANNUM

For any twelve-month period, the franchise fees paid by a cable operator with respect to any cable system shall not exceed 5 percent of such cable operator's gross revenues derived in such period from the operation of the cable system to provide cable services. For purposes of this section, the 12-month period shall be the 12-month period applicable under the franchise for accounting

purposes. Nothing in this subsection shall prohibit a franchising authority and a cable operator from agreeing that franchise fees which lawfully could be collected for any such 12-month period shall be paid on a prepaid or deferred basis; except that the sum of the fees paid during the term of the franchise may not exceed the amount, including the time value of money, which would have lawfully been collected if such fees had been paid per annum.

(c) ITEMIZATION OF SUBSCRIBER BILLS

Each cable operator may identify, consistent with the regulations prescribed by the Commission pursuant to section 543 of this title, as a separate line item on each regular bill of each subscriber, each of the following:

- (1)** The amount of the total bill assessed as a franchise fee and the identity of the franchising authority to which the fee is paid.
- (2)** The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels.
- (3)** The amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber.

(d) COURT ACTIONS; REFLECTION OF COSTS IN RATE STRUCTURES

In any court action under subsection (c), the franchising authority shall demonstrate that the rate structure reflects all costs of the franchise fees.

(e) DECREASES PASSED THROUGH TO SUBSCRIBERS

Any cable operator shall pass through to subscribers the amount of any decrease in a franchise fee.

(f) ITEMIZATION OF FRANCHISE FEE IN BILL

A cable operator may designate that portion of a subscriber's bill attributable to the franchise fee as a separate item on the bill.

(g) "FRANCHISE FEE" DEFINED

For the purposes of this section—

- (1)** the term "franchise fee" includes any tax, fee, or assessment of any kind

imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such;

(2) the term “franchise fee” does not include—

(A) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable subscribers);

(B) in the case of any franchise in effect on October 30, 1984, payments which are required by the franchise to be made by the cable operator during the term of such franchise for, or in support of the use of, public, educational, or governmental access facilities;

(C) in the case of any franchise granted after October 30, 1984, capital costs which are required by the franchise to be incurred by the cable operator for public, educational, or governmental access facilities;

(D) requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

(E) any fee imposed under title 17.

(h) UNCOMPENSATED SERVICES; TAXES, FEES AND OTHER ASSESSMENTS; LIMITATION ON FEES

(1) Nothing in this chapter shall be construed to limit any authority of a franchising authority to impose a tax, fee, or other assessment of any kind on any person (other than a cable operator) with respect to cable service or other communications service provided by such person over a cable system for which charges are assessed to subscribers but not received by the cable operator.

(2) For any 12-month period, the fees paid by such person with respect to any such cable service or other communications service shall not exceed 5 percent of such person's gross revenues derived in such period from the provision of such service over the cable system.

(i) REGULATORY AUTHORITY OF FEDERAL AGENCIES

Any Federal agency may not regulate the amount of the franchise fees paid by a cable operator, or regulate the use of funds derived from such fees, except as provided in this section.

(June 19, 1934, ch. 652, title VI, § 622, as added Pub. L. 98-549, § 2, Oct. 30, 1984, 98 Stat. 2787; amended Pub. L. 102-385, § 14, Oct. 5, 1992, 106 Stat. 1489; Pub. L. 104-104, title III, § 303(b), Feb. 8, 1996, 110 Stat. 125.)



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