

# CONSUMER FACT SHEET

## Answers to Consumer Questions about Programming Black Outs

---

### **Why does my cable operator black out certain programs?**

The Federal Communications Commission's syndication exclusivity ("syndex") and network program non-duplication rules allow broadcast stations to demand that a cable operator black out programming that is duplicated on another channel. Under the syndex rules, the broadcaster and the owners of the programming may negotiate a syndication agreement that gives the local broadcaster exclusive rights to broadcast the programming within a certain market. For example, this means that if a local broadcast station has exclusive rights to broadcast reruns of *Seinfeld*, then it can require the cable operator to black out *Seinfeld* reruns if that programming is carried on another station. The network non-duplication rules are similar to the syndex rules in that they give protection to commercial and non-commercial broadcast stations by preventing the cable operator from duplicating network programming on another station. If a local station has the exclusive rights to distribute a network program and it is broadcast by another station, the station can require a cable operator to black out the programming on the other channel.

### **Why does the broadcaster want the programming blacked out?**

Local broadcast stations pay money for network and syndicated programming. In doing so, the broadcaster often wants exclusive rights to the profits it earns from that programming. Advertisers also often negotiate rates for commercials based on this presumption of exclusivity. Cable operators are required to comply with these program exclusivity and non-duplication agreements so that exclusive rights to the programming are protected. In doing so, the cable operator is required to black out the programming even if another station is carrying the program at a different time or showing a different episode. If a cable operator fails to black out a program, the operator could face copyright penalties and FCC fines.

### **Is this why programming sometimes differs from the TV listings?**

Yes. Cable operators may choose to either black out the duplicated programming or use alternative programming. Cable operators who substitute programming must return to the originally scheduled programming when the substituted program is over, even if a program is already in progress on that station.

---

For more information, please contact the Consumer Division at (617) 727-3531  
toll free at 1-800-392-6066

**OR**

The Cable Division at (617) 305-3580  
Toll free at 1-888-MA CBL TV (1-888-622-2588)  
[www.state.ma.us/dpu/catv](http://www.state.ma.us/dpu/catv)