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ONE HUNDRED EIGHTEENTH CONGRESS
Congress of the United States
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August 8, 2023

The Honorable Jessica Rosenworcel
Chairwoman
Federal Communications Commission
45 L Street, N.E.
Washington, DC 20554

Dear Chairwoman Rosenworcel:

We write to express concerns about any attempt by the Federal Communications Commission (FCC) to apply 1990s-era laws and regulations to virtual Multichannel Video Programming Distributors (vMVPD). The video marketplace has drastically changed since the Congress last considered the laws pertaining to the regulation of Multichannel Video Programming Distributors (MVPDs), which, combined with vMVPDs, make up a vibrant video marketplace. If the laws and regulations governing the video marketplace need to be reexamined, it is up to Congress to make updates, not the FCC.

In 2014, the FCC opened a proceeding titled “Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services,” which sought comment on the possible interpretation of the term “MVPD”¹. Recently, there have been calls for you to “refresh the record...and issue a final order reflecting the FCC’s interpretation of Section 602 of the Communications Act.”² However, as you have previously stated, the FCC does not have the necessary legal authority to regulate vMVPDs³ we agree with your previous statements and urge you to refrain from taking any actions to reopen this proceeding.

¹ “Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services,” Notice of Proposed Rulemaking, Federal Communications Commission. (MB Docket No. 14-261). Rel. Dec 19, 2014. Available at: <https://docs.fcc.gov/public/attachments/FCC-14-210A1.pdf>.

² Letter from the Honorable Maria Cantwell, U.S. Senate, to Jessica Rosenworcel, Chairwoman, FCC (June 22, 2023), https://www.nab.org/documents/newsRoom/pdfs/062223_Cantwell_Letter.pdf.

³ Letter from Jessica Rosenworcel, Chairwoman, FCC, to the Honorable Charles Grassley, U.S. Senate (Mar. 24, 2023), <https://docs.fcc.gov/public/attachments/DOC-392183A2.pdf>.

MVPDs are regulated by the Communications Act of 1934⁴ as amended by the Cable Communications Policy Act of 1984⁵ and subsequently, the Cable Television Consumer Protection and Competition Act of 1992⁶ (The Cable Act). The Cable Act focuses on laws governing traditional cable television systems and provides the FCC authority to regulate MVPDs through the implementation of rules and regulations to ensure fair competition, consumer protection, and access to diverse programming.

However, the Cable Act was enacted prior to the emergence of vMVPDs, which do not appear to present the same perceived marketplace failures that the Cable Act sought to address in the 1990s-era cable industry. Unlike that video marketplace, which was dominated by over the air broadcasting and a lack of competitive alternatives to cable operators, today's marketplace includes several competitive streaming options that provide consumers with news, sports, entertainment, and local news programming. Imposing old cable regulations on vMVPDs would ignore the unique characteristics and complexities of the online video ecosystem.

While we should not impose regulations from the 1990's on a modern technology, we also recognize the importance of protecting access to local broadcasting. Our constituents rely on local broadcasting to hear the news in their communities, listen to sports, and receive information during emergencies. Local broadcasters are the lifeblood of our communities, and we must ensure they have the tools they need for a robust and successful media industry.

Should changes be necessary, it is Congress' responsibility to examine reforms to the laws that govern the media marketplace to ensure that broadcast stations, cable, and satellite television providers, and vMVPDs are able to compete fairly, not the FCC's. We again urge you to refrain from taking any action to impose outdated regulations on vMVPDs.

Sincerely,



Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce



Robert E. Latta
Chair
Subcommittee on Communications
and Technology

⁴ Pub. L. 73-416

⁵ Pub. L. 98-549

⁶ Pub. L. 102-385