

New Tang Dynasty (NTD) Television is responding to the following Notice of Proposed Rulemaking (NPRM): “Promoting the Availability of Diverse and Independent Sources of Video Programming” [MB Docket No. 16–41; FCC 16–129].

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Promoting the Availability of Diverse and)	MB Docket No. 16-41
Independent Sources of Video)	
Programming)	
)	

Order

Adopted: December 19, 2016

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Extended Reply Comment Filing Deadline: February 22, 2017

New Tang Dynasty Television Background

NTD Television, established in 2001 in New York City by Chinese Americans, is an American-owned and operated network (based in New York, New York) and the first independent nonprofit Chinese-language TV channel in the U.S. It is the only in-language Chinese TV network dedicated to freedom, democracy and human rights in the U.S. It is the world’s largest Chinese network outside of China.

NTD’s news follows western journalism standards, thereby making it the most trusted voice in Chinese News. It delivers over 1200 hours of original content each year. NTD is considered an antidote to state run China Central Television (CCTV) by many Chinese Americans. It continues to build on its stellar reputation as being objective, while delivering timely reporting of political, economic and cultural stories since its founding—according to International Federation of Journalists. NTD is embraced by millions of Chinese immigrants who have come to America craving democracy and religious freedoms.

NTD is the only nationally distributed Chinese TV network with local broadcasts and reporters in the following top Chinese markets: New York, Los Angeles, Washington D.C., Houston, San

Francisco, and Honolulu. NTD's 24/7 programming focuses on subjects of critical importance to the fastest-growing immigrant population in the U.S.—over four million Chinese—such as immigration, health care and the democratic process. NTD hosts numerous highly-attended local events on these topics, and simultaneously translates important election-related events such as the presidential debates—and has been doing so for over a decade.

NTD's investigative journalism and cultural programming is completely independent of the Chinese government, which controls and censors all media within China, and also exerts considerable influence on Chinese TV networks outside of the Chinese mainland. With its unique independent position in the landscape of Chinese-language TV networks, NTD is critically acclaimed for its coverage of China cyber warfare (broadcasting to our knowledge the first video evidence of a cyber attack being launched from a Chinese military institution against U.S. servers) and as well as, ten years ago, the first evidence of forced organ harvesting from prisoners of conscience by the Chinese state. Beyond its television programming, NTD has distinguished itself for its leading role in the promotion of traditional Chinese arts and culture throughout communities in America.

NTD TV Distribution

For over 15 years, NTD has sought, but struggled with distribution on MVPD platforms. At its peak, NTD was available to less than 10 million MVPD homes. It has had success establishing distribution relationships only with Time Warner Cable (Charter) and Cablevision (Altice), but agreements have never been reached with other MVPDs for linear feeds. There are multicast broadcaster partnerships in a few markets, some of which have helped dedicated Chinese speaking Americans gain access to NTD through over the air broadcast. NTD also broadcasts into Asia and Europe via satellite, cable, over-the air, and Internet; and it reaches over 100 million viewers worldwide. Notably, NTD Television is delivered uncensored into mainland China via an unencrypted satellite feed.

Independent Programmer Definition

The NPRM is addressing issues related to the challenges and obstacles facing Independent programmers and which thwart consumer choice and competition. In the NPRM, the FCC has asked if it should define an *independent video programming vendor* as a video programming vendor that is not affiliated with a broadcast network, movie studio or MVPD. Our answer is an unequivocal **yes, but with an important addition**.

- Importantly, we recommend the FCC include one more critical element in its definition of an Independent Network: **Independent networks must have no direct or indirect affiliation with a U.S. or foreign government body.**

China's influence on the MVPD landscape

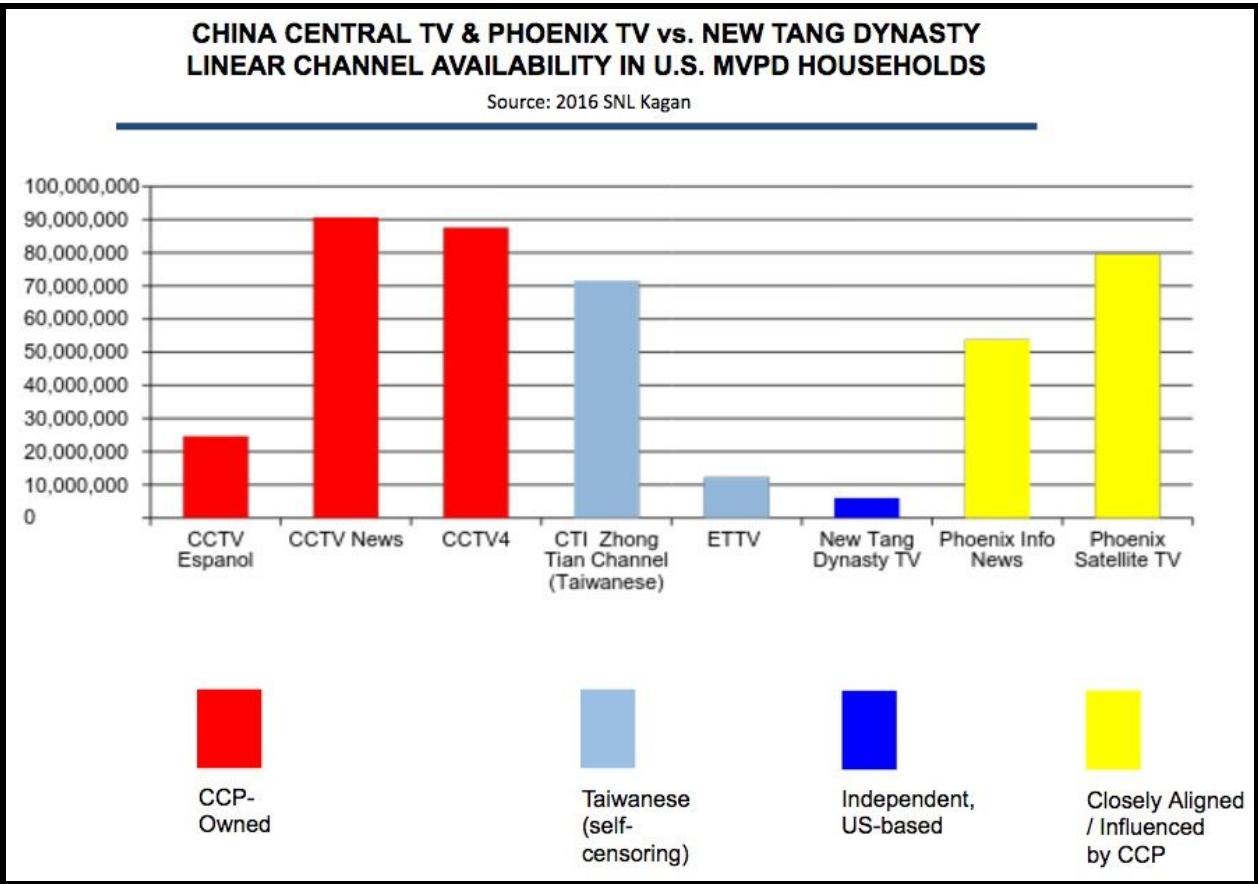
A perilous issue for an American independent company and Chinese language network

NTD easily meets the definition of a traditional independent TV Network: it has no MVPD affiliation, no broadcaster relationships, no movie studio ownership, is a minority run company, and a non-profit company.

Yet, our greatest challenge is unique to most independent networks. We would like the FCC to address the obstacles created by the Chinese government, which controls (owns or significantly influences) the majority of the Chinese language programming available to Americans on MVPD platforms. Agents of the Chinese government are making NTD's distribution on MVPD platforms very difficult—if not impossible. They have interfered with and even threatened NTD's prospective distribution partners. The Chinese government's market power is actually greater than that of any movie studio or broadcaster combined. It has virtually unlimited financial resources to buy distribution and most importantly, can use its soft power to influence MVPDs which might be pursuing expansion of other business units into China.

Chinese television networks like CCTV play a critical role in the Chinese Communist Party (CCP)'s propaganda and disinformation efforts in the U.S.—tapping into an annual overseas propaganda budget of \$10 Billion-plus. It is impossible to imagine how such networks, with their massive resources and following closely a CCP-approved and engineered narrative in their news and other programming, could be considered independent programmers. Indeed, the Countering Disinformation and Propaganda Act—bipartisan legislation recently signed into law as part of the 2017 National Defense Authorization Act (NDAA)—shows how the U.S. government is aware of such efforts by foreign governments, notably China. The legislation was created to counter the use of “disinformation and other propaganda tools to undermine the national security objectives of the United States and key allies and partners” by “Governments of the Russian Federation and the People's Republic of China.”

The chart below reflects the availability of several Chinese-controlled channels on U.S. MVPD platforms. How MVPDs have nearly universal distribution of China's government-owned Chinese language channels is a powerful illustration of the power and reach of the Chinese government. Those channels don't provide any local programming. They don't report objectively. They carry the messages the CCP wants Chinese Americans (and indeed, Spanish and English-speaking Americans, via its CCTV Espanol and CCTV English channels) to hear. Yet, NTD is sparsely carried by MVPDs, available to less than 10 million households. The Chinese government-owned or heavily-influenced channels are available to approximately 90 million MVPD households (see figure on page 4).



Note: "self-censoring" refers to avoiding hot button issues that are known to be "sensitive" to the Chinese government.

WE URGE THE FCC TO INVESTIGATE AND CREATE FAIR POLICY

Why are China's government owned channels so widely distributed, yet NTD, an American owned and independent Chinese language TV network that enjoys considerable viewership where it is carried, cannot gain carriage among those same households? That is a question we urge the FCC and Congress to investigate as it looks to create new policy which might level the playing field for all independent programmers. Communist China, with ownership of CCTV and strong influence over Phoenix Television, as just two examples, has helped those channels gain access to about 90 million American households. These are households which NTD has been unable to secure, as MVPDs control the gates to those homes. This paradigm creates enormous economic challenges for NTD, and arguably, a national security issue for America.

This disturbing view of the Chinese TV landscape in America's MVPD households should be alarming to the FCC and Congress. One can assume President Trump will tackle this issue with a very firm hand when it reaches his desk. We believe, unless challenged by the administration,

China will continue to use its power to prevent the transmission of NTD's independent voice from gaining access to MVPD lineups.

It simply makes no sense for MVPDs, especially considering NTD's strong viewership and extensive local reporting and presence in U.S. Chinese communities, to be carrying CCTV, Phoenix and other Chinese channels in their Chinese packages, and not even meeting with NTD. Are MVPDs agreeing to anti-competitive requirements from Beijing, in exchange for lucrative deals in America? It is completely unacceptable for CCTV, or any competitive channel, to exert editorial control over the content distributed by MVPDs. Especially if that content, as is the case with NTD, specifically serves to counter the propaganda and disinformation found on the networks run or heavily influenced by the Chinese state. We urge the FCC to find a way to better assess, and ultimately address this problem.

To illustrate Beijing's attitude towards NTD, in 2005 NTD had obtained carriage on a satellite over Asia owned by the French operator Eutelsat SA. As documented in the Wall Street Journal article "Eutelsat's Chinese Aims Hit Static," Eutelsat (knowing full well of Beijing's animosity towards NTD) actually envisioned its deal with NTD as part a machiavellian strategy to gain the attention of the Chinese authorities, and leverage that to ultimately gain lucrative contracts that it had been unable to secure for years. Had it not been for the intervention of over 60 members of U.S. Congress at the time, reminding Eutelsat of its sizeable contracts with the Pentagon, Eutelsat would have dropped NTD.

Much closer to home, an MVPD carrying NTD was approached by Chinese embassy officials in 2009. When news of NTD's launch by RCN in the Washington, DC area reached Beijing, a high-level RCN executive received phone calls from the Chinese embassy and was told to stop carrying NTD. He made his management team aware of the pressure being exerted by the embassy. The pressure moved to a personal front, where this executive was essentially threatened. The Chinese agents insinuated they could make it difficult for him to travel back to his homeland in India. This executive is open to discussing the details of this situation with the FCC or other interested agencies privately, upon request. NTD is also happy to discuss further examples of Beijing's influence with the FCC upon request.

NTD Recommendation: AMERICA FIRST

We are seeking a response from the FCC to the following recommendations. NTD believes the FCC must protect the interests of American-owned and operated independent channels that compete for shelf space with networks/channels owned and controlled by the Chinese government. We urge the FCC to be granted the power to support and protect American-owned media companies which are competing with foreign state-owned media companies. The First Amendment is at risk if foreign governments are able to effectively buy control of the MVPD landscape. This isn't just an NTD issue. The issue is paramount to the survival of independent channels owned by American companies.

Recommended Action Steps

Please find below specific ACTION STEPS which should be considered by the FCC, ensuring that the market is operating freely and without any harmful influence by foreign governments, **especially authoritarian regimes and countries known to actively engage in propaganda, disinformation and information warfare initiatives**, over MVPD content and channel lineups:

1. Foreign governments, which directly own or sponsor channels carried on MVPD platforms, should be required to file their distribution agreements with the FCC. Those agreements should be open to FCC and public scrutiny.
2. Additionally, MVPDs should be required to make available to the FCC documents or evidence related to foreign governments using soft power or economic strength to gain advantage over American-owned networks.
3. Direct or indirect foreign government control or influence over channel lineups, or editorial content in foreign language MVPD packages, must be prohibited.
4. Anti-competitive behavior by foreign governments—and their state-owned media—in their relationships with MVPDs, including “handshake” deals, must be dealt with expediently by the FCC.
5. A mechanism should be in place for American-owned independent networks to request the FTC and/or FCC to investigate anti-competitive behavior of foreign government-owned and influenced networks.
6. American-owned media companies must be granted equal access to distribution platforms featuring foreign government-owned channels.
 - a. American-owned independent channels should not be required to meet the same economic terms effectively set by a state-run networks. This amounts to discrimination, as such channels don’t have the deep pockets of networks run and supported by governments. It is a dangerous and slippery slope to demand an independent channel to pay an MVPD for carriage based on terms established by the MVPD in a deal with a foreign government-owned and funded network.
 - b. Foreign government-owned and funded networks are in effect highly subsidized, in that (1) they have large budgets for carriage based political agenda, not viewership and (2) confer benefits to MVPDs in the form of influence with their respective governments. If an MVPD will not provide equal access to American-owned networks (ones that clearly meets the needs of U.S. communities), that MVPD should be paying an appropriate penalty or tax.