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APR 11 2016

FCC Mail Room

April 4, 2016

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Dear Chairman Wheeler:

The Federal Communications Commission (FCC) is encouraged to consider the unique needs of small and medium sized broadband, video and voice providers as it reviews rules governing retransmission consent. These providers serve an important constituency given the geographic challenges in providing services to the small and rural areas of our home state of West Virginia.

On September 2, 2015, the FCC announced *Notice of Proposed Rulemaking 15-109* that examines the "totality of the circumstances test" when determining whether or not broadcast television stations and multichannel video programming distributors (MVDs) are negotiating retransmission consent agreements in good faith.

Since Congress created the retransmission consent regime in 1992, significant technological changes in the marketplace have altered the negotiation dynamics between all parties. As a result, the number of programming blackouts has steadily increased from 12 in 2010 to over 100 in 2014. These blackouts only serve to harm the customer who faces a loss of programming through no fault of his/her own.

Small and medium-sized broadband, video and voice providers play an important role in providing broadcast services to consumers across West Virginia. The FCC is urged to ensure their concerns are heard and addressed as the Commission reviews the totality of the circumstances test and considers additional action.

Sincerely,

  
David B. McKinley, P.E.  
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

June 22, 2016

The Honorable David B. McKinley  
U.S. House of Representatives  
412 Cannon House Office Building  
Washington, D.C. 20515

Dear Congressman McKinley:

Thank you for your letter sharing your interest on behalf of small and medium-sized broadband, video and voice providers and the impact the proceeding on retransmission consent reform will have on them. Your views are very important and will be included in the record of the proceedings and considered as part of the Commission's review.

As you indicated, the Commission adopted a Notice of Proposed Rulemaking (NPRM) in September 2015 to review the so-called "totality of the circumstances test" for evaluating whether broadcast television stations and multichannel video programming distributors (MVPDs), such as cable television operators and satellite television carriers, are negotiating for retransmission consent in good faith. The NPRM undertakes a robust examination of practices used by parties in retransmission consent negotiations. The goal of the NPRM is to ensure that these negotiations are conducted fairly for all parties, including small MVPDs, and in a way that protects consumers. Section 76.65 of our rules currently lays out the standards for what constitutes good faith negotiation. The pending NPRM seeks comment on how we can strengthen these rules and help minimize service disruptions. Commission staff is currently reviewing the record in this proceeding; the analysis of that record will include careful consideration of the comments submitted by small and medium-sized MVPDs.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish extending to the right.

Tom Wheeler