



The voice of mid-size communications companies

July 14, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex Parte* Communications: MB Docket No. 16-42; CS Docket No. 97-80

Dear Ms. Dortch:

On July 12, 2016, A.J. Burton and Michael Saperstein of Frontier Communications (Frontier), and Genny Morelli and the undersigned of ITTA, met with Louisa Terrell, Gigi Sohn, and Jessica Almond of the Office of Chairman Wheeler, and Eric Feigenbaum of the Office of Media Relations, and separately with Matthew Berry and Ashwin Aravind of the Office of Commissioner Pai, regarding the above-captioned proceedings.¹ On July 13, 2016, the same representatives of Frontier and ITTA met with Marc Paul of the Office of Commissioner Rosenworcel regarding the above-captioned proceedings.

The comments filed by ITTA and its member companies in this proceeding addressed the myriad significant legal and policy shortcomings of the proposals contained in the NPRM.² In our meetings, we referenced these comments, and expressed general support for the alternative “ditch the box” proposal advanced by NCTA and others,³ except as noted below. This alternative proposal appears to address several of ITTA’s concerns with the NPRM’s proposals, such as control over the user interface with the multichannel video programming distributor’s (MVPD’s) service. Moreover, a critical element of the alternative proposal is its single, open standards-based approach.

We discussed the burdensome costs that smaller, new entrant MVPDs would be forced to bear associated with development of any third-party navigation solution. Those costs would impose tremendous hardship on ITTA members and other smaller MVPDs that are often the most recent and typically the third, fourth, or fifth entrant in their markets, and thus occupy a more precarious competitive position than the already entrenched cable and satellite providers.

¹ *Expanding Consumers’ Video Navigation Choices; Commercial Availability of Navigation Devices*, Notice of Proposed Rulemaking and Memorandum Opinion and Order, 31 FCC Rcd 1544 (2016) (NPRM).

² See Comments of ITTA, MB Docket No. 16-42, CS Docket No. 97-80 (filed Apr. 22, 2016); Comments of Frontier, MB Docket No. 16-42, CS Docket No. 97-80 (filed Apr. 22, 2016); Comments of CenturyLink, MB Docket No. 16-42, CS Docket No. 97-80 (filed Apr. 22, 2016).

³ See Letter from Paul Glist, Davis Wright Tremaine LLP, to Marlene Dortch, Secretary, FCC, MB Docket No. 16-42, CS Docket No. 97-80 (filed June 17, 2016).

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To illustrate, Frontier described its limited, overlapping technical resources both to launch a new video service in over three-dozen markets and to develop a new app in conformance with whatever requirements the Commission ultimately adopts in this proceeding.

In light of these costs, we expressed the benefits of a small provider exemption from any rules adopted by the Commission. More specifically, we urged the Commission to exempt providers with two million or fewer subscribers. We pointed out that over 90% of MVPD subscribers would be covered by the rules and the vast majority of consumers throughout the country would have three or more (two DBS providers and a large cable MVPD) open standards device choices under a two million subscriber exemption. At a minimum, in the absence of a small provider exemption for providers with more than one million subscribers, we suggested, for providers with more than one million but with two million or fewer subscribers, an implementation delay of one or two years, beyond the two-year implementation period suggested in the alternative proposal, for the applicability to such providers of whatever requirements the Commission ultimately adopts in this proceeding.

Please do not hesitate to contact the undersigned with any questions regarding this submission.

Respectfully submitted,



Michael J. Jacobs
Vice President, Regulatory Affairs

cc: Louisa Terrell
Gigi Sohn
Jessica Almond
Marc Paul
Matthew Berry
Eric Feigenbaum
Ashwin Aravind