

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

In the Matter of)	
)	
Petition for Rulemaking to Amend the)	RM-11728
Commission’s Rules Governing)	
Practices of Video Programming Vendors)	

Comments of TheBlaze Inc.

TheBlazeTV is a 24/7 high definition news and entertainment independent cable programming service carried on the systems of over 70 multichannel video distribution providers (“MVPDs”), including DISH Network, Cablevision and Suddenlink.

TheBlazeTV is the home of The Glenn Beck Program, hosted by radio and television personality Glenn Beck. The network features news, information and entertainment programming from a libertarian and conservative perspective. TheBlaze believes that free market forces, not government regulation, should be the preferred mechanism for licensing and distributing video programming, but recognizes the above-referenced Petition for Rulemaking (“Petition”) touches on important, market-distorting industry practices that have a deleterious effect on emerging independent video programming vendors, consumer choice and competition.

While we take no position on the remedies proposed by Mediacom in its Petition, we agree with Mediacom that large video programming vendors engage in certain behaviors, particularly wholesale bundling, that undermine and are antithetical to the FCC’s fundamental public interest objectives of promoting diversity, competition and

innovation. Further, these practices have had the unintended consequence of impeding, and at times foreclosing, the opportunity for independent programmers – the entrepreneurial risk-takers that provide greater choice by creating diverse, innovative content to under-served audiences – to access consumers in a non-discriminatory manner, as compared to vertically-integrated MVPDs and large media companies who force MVPDs to carry (and pay for) networks with little consumer demand (or audience) as a condition to renewing or carrying networks that appeal to broader audiences or may include “must have” programs.

These practices are exacerbated by the inclusion of MFN clauses in independent programming vendors’ agreements with MVPDs that are generally more expansive than those typically included in MVPDs contracts with vertically-integrated and/or large media companies. As TheBlaze has noted previously, Most Favored Nation (“MFN”) clauses represent a significant obstacle on the ability of independent programming vendors to grow their distribution footprint. Emerging independent programmers vendors need flexibility to offer unique deals to early adopter MVPDs and OVDs. MFNs proscribe this flexibility by allowing MVPDs to pick and choose any number of contract terms from competing MVPDs’ contacts that are most favorable to them, without regard to the concessions that were made to secure those terms and without having to deliver commensurate value to the programmer. Market distorting MFN’s, which allow MVPDs to “cherry pick” contract terms, force emerging independent programmers to negotiate with a *de facto* cartel.

However, while all emerging independent programmers must navigate the MFN minefield, not all emerging networks face the same gauntlet. Emerging networks that are bundled with suites of “must have” programming can avail themselves of substantially different carriage terms than those offered to independent programmers, often unencumbered by the very expansive MFNs to which independent networks are subject. When similarly situated networks do not play under the same set of rules, the independent programmers are forced to bear a disproportionate share of downward pricing pressure.

While TheBlaze takes no position on the regulatory remedies proposed by Mediacom in the Petition, we urge the Commission to continue to review how MFNs can be utilized to distort free market competition. When independent programmers face structural obstacles to carriage that bundled networks do not, consumers lose. Consumers are offered fewer diverse channels at higher prices -- a condition that could not exist in a truly free market.

Respectfully submitted,

_____/s/_____
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September 29, 2014