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January 4th, 2015

The Federal Communications Commission

445 12th Street, S.W.

Washington, D.C. 20554

Re: Promoting Innovation and Competition in the provision of Multichannel Video Programming Distribution Services, MB Docket No. 14-261

Dear Sir/Ma'am:

I want to thank this honorable Commission for underscoring the importance of this issue. Clearly, no one can deny the impact that the internet has had on the video programming space. However, if we look back at the last decade, all of the innovation and change that has taken place has been in the periphery of linear TV mainly within the user generated video space, YouTube, or in the VOD space, Netflix.

The reason is simple; potential new MVPDs cannot access linear networks in the same way that incumbents do on similar terms. Consequently, companies such as Sky Angel fail in their attempts to negotiate carriage agreements, while companies like filmon and fuboTV are forced into programming, while they wait for changes in regulation or market conditions that might provide an opportunity to enter the MVPD market. Another recent example of a failed attempt was Intel's On Cue, acquired by Verizon, conceded defeat suggesting that it was too complicated and costly to come to a consensus with media companies.

In hindsight, Netflix's original goal, in the early 2000's was really to redefine the video rental space. A space in which every Blockbuster and any mom and pop rental store had non-discriminatory access to DVDs. Having access to movies allowed Netflix to experiment in distribution and pricing in hopes of gaining market share against resource rich incumbents such as Blockbuster. Incidentally, Netflix course of action, regardless if through trial and error, has disrupted the way we interact with programming.

Alternatively, during this same period there has been absolutely no disruption within the linear video space and equally noteworthy no new entrants since at&t U-verse and Verizon Fios which launched its service with a mere 9000 subscribers in Keller, Texas.

Without regulation in place for equal non-discriminatory access to content there is absolutely no way for new companies to enter the market, and like Netflix, test new and innovative ways that may one day further transform the market and the way we consume content.

With respect to statement made by the commission, I wanted to first commend in particular, Chairman Wheeler's reference to 1992. It is difficult indeed to argue, principally after the failure of companies

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such as USCI (1985) the fate of DBS and Satellite without regulation; and more importantly, the wellbeing of consumers if deprived of choice.

One can certainly understand why this topic might be perplexing to those who share Commissioner O’Rielly’s concerns. In order to understand the underlying issues it is essential to recognize that MVPDs are also Programmers- in fact MVPDs from Comcast and Time Warner to Dish and Direct TV own the vast majority of regional sports networks. MVPDs also own media companies and individual TV networks. Therefore, it is highly unlikely that agreements with new entrants can be struck on like terms that might otherwise undermine a holding companies ability to maintain subscribers.

Equally mystifying are the Commissioner’s examples of agreements being struck by Sony and Dish. Sony, owns one of the largest TV and movie production companies in the world, home to shows such as Blacklist (NBC) and Shark Tank (CNBC). These are companies that have intricate relationship with one another and interact with each other across distribution, programming and production. They have good reason to find amicable terms as they are in many ways bound by one another.

Dish an even more troubling example- is a company that already has extensive relationships with every programmer in the US and a reputation for pushing back on programmers such as FOX News and CBS when it comes to increased fees for carriage agreements. There is no way to know exactly how these relationships play into new OTT negotiations and arrangements. Outside of the establishment there aren’t any examples of any companies that have even been remotely close to securing a programming deal. I find this extremely disturbing as do many of the citizens of the United States.

Lastly on Dish, it would help the commission to know that such a company’s goal is to block new entrants from the market. While waiting for resolution on MVPDs, we set out to launch with international channels only to find out that certain foreign cable networks, such as Sport TV of Portugal have exclusive arrangements with Dish and its affiliated properties. Advertised on its website, dishworld.com confirms that it is “the exclusive International TV and Movie service for the award-winning Roku streaming video player” further suggesting new entrant with similar content might not even have access to Roku. Not only are we denied access into the general market MPVD space but also the international space not by foreigner programmers but by MVPDs. I urge the commission to take a much needed look into MVPD agreements and foreign cable networks as price gauging is imminent.

Finally, all we have to do is look at the net promoter scores of cable companies vs the scores of companies in other industries to understand the frustration that consumers feel. <http://customergauge.com/news/2014-net-promoter-benchmarks/> It is simply un-American to continue to maintain a status quo when consumers have never been unhappier and companies such as ours are ready and eager to disrupt the current regime but can’t break in.

How much more time and how much more of a head start will the commission afford these massive companies? I humbly urge you to look at the facts as it is clearly impossible to continue down this path not for small business and certainly not for consumers.

Sincerely,

David Gandler, CEO

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