Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Amendment to the Commission's Rules Concerning Effective Competition	)	MB Docket No. 15-53
	)	
Implementation of Section 111 of the STELA Reauthorization Act	)	

MOTION TO NARROW THE SCOPE OF THE PROCEEDING OR FOR AN EXTENSION OF TIME

The National Association of Broadcasters (NAB)[1] and Public Knowledge[2] hereby request that the Federal Communications Commission narrow the scope of issues addressed in, or alternatively grant an extension of the deadlines for the submission of comments and reply comments in response to, the *Notice of Proposed Rulemaking* ("*NPRM*") in the above-captioned proceeding.[3] The current deadlines are shorter than for a typical rulemaking of this size and scope, with comments currently due on April 9, 2015 and reply comments due on April 20, 2015. NAB and Public Knowledge respectfully request an extension of these deadlines until May 11, 2015 for comments and May 26, 2015 for reply comments.

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[1] NAB is a nonprofit trade association that advocates on behalf of free, local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

[2] Public Knowledge is a nonprofit organization that promotes freedom of expression, an open internet, and access to affordable communications tools and creative works.

[3] *Amendment to the Commission's Rules Concerning Effective Competition; Implementation of Section 111 of the STELA Reauthorization Act*, Notice of Proposed Rulemaking, MB Docket No. 15-53, FCC No. 15-30 (Mar. 16, 2015)(*NPRM*).

Section 111 of the STELA Reauthorization Act of 2014 (STELAR)[4] contains a narrow, specific directive that the Commission "establish a streamlined process for filing of an effective competition petition … for small cable operators."[5] Congress further stated that: "[n]othing in this subsection shall be construed to have an effect on the duty of a small cable operator to prove the existence of effective competition..."[6] Congress even went so far as to specifically define what it meant by "small" cable operator.[7]

While Congress's directive is limited, procedural in nature and focused specifically on small cable operators, the Commission's *NPRM* is wide-ranging and has the potential to have a seismic impact on consumers throughout the country, regardless of whether they are served by small cable companies. Specifically, the Commission seeks comment on a proposal to eliminate the longstanding system whereby cable operators file petitions seeking a determination of effective competition and replace it with a regime where effective competition is simply presumed.[8] In addition, the Commission proposes that this significant substantive change should apply to *all* cable operators, not just those defined by STELAR as "small." The *NPRM* seeks comment on many questions, including whether it should adopt this proposal, whether changes in the market for multichannel video programming distributor (MVPD) service justify modifying this presumption (including several data-intensive questions),[9] whether the proposal is consistent with Section 111 (in spite of specific Congressional instructions not to change "the duty" to

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[4] Pub. L. No. 113-200, § 111, 128 Stat. 2059 (2014).

[5] Pub. L. No. 113-200, § 111, 128 Stat. 2059 (2014).

[6] *Id*.

[7] *Id.*

[8] *NPRM* at ¶¶ 1-2.

[9] *NPRM* at ¶¶ 8-11.

prove effective competition)[10] and how local franchise authorities will meet their new burden to prove that effective competition does not exist.[11]

In light of the June 2, 2015 statutory deadline for the adoption of rules implementing Section 111, NAB and Public Knowledge urge the Commission to significantly narrow the scope of this proceeding to issues and questions specific to STELAR implementation (e.g., procedures for filing of petitions affecting small cable operators as defined in the statute) and defer its consideration of the broader range of issues presented in the *NPRM* to a later date, if at all. The more pointed inquiry tied to what Congress actually sought will allow commenters to focus their analyses and comments on only those issues that must be addressed during the statutory timeframe prescribed by STELAR. The current comment deadlines are reasonable only if the scope of the proceeding is circumscribed in this manner.

If the Commission is intent on pursuing the *NPRM*'s more sweeping proposals, however, we urge it to extend the deadlines for comments and reply comments so that affected parties can fully digest the NPRM's questions and develop the most robust submissions on the myriad issues raised by the proposals in the *NPRM.* Such issues may include, but are not limited to: (i) the state of the video marketplace; (ii) whether the public interest will be served by providing any form of relief from the effective competition petition filing process for cable operators other than small operators; (iii) the extent of the Commission's authority to modify the obligation to "prove the existence of effective competition" in light of Section 111; (iv) whether local franchise authorities have adequate

[10] *NPRM* at ¶ 12.

[11] *NPRM* at ¶14-23.

resources to meet the burden of proving effective competition; (v) the impact on cable rates should consumers' current right to a basic tier be eliminated; (vi) an assessment of the effect on traditionally underserved communities should cable rates go unchecked; and (vii) how modifications to the petition filing process or any burden shifting may impact MVPDs subscribers, other television viewers, advertisers, distribution of broadcast signals, and distribution of public, educational and governmental access channels.

Conclusion

Given the limited time allotted for the Commission's implementation of Section 111 of STELAR, NAB and Public Knowledge strongly urge the Commission to narrow the scope of its *NPRM* and defer consideration of issues beyond the filing process for small cable operators. This deferral should include reversing the Commission's proposed presumption of effective competition with regard to any cable operators, or modifying the filing process for cable operators other than small operators specified in the statute. Alternatively, NAB and Public Knowledge urge the Commission to afford commenters significant additional time to address the important issues raised by the proposals in the *NPRM.* We believe these courses of action will serve the public interest by allowing the Commission to better effectuate STELAR and obtain necessary data and information on the broader questions raised by proposals in the *NPRM*.

Respectfully submitted,

NATIONAL ASSOCIATION OF BROADCASTERS

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PUBLIC KNOWLEDGE

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