

## Leased Access Programmers Association

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FILED ELECTRONICALLY

August 18, 2015

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

Re: Internet Access in Cable TV Operator's Headend & Leased Access Programmers & Ill effect on leased access if Charter/TWC/Brighthouse transactions are approved  
Reply/Comment to MB Docket 15-149

Dear Ms. Dortch:

In FCC's 2007 Notice of Proposed Rule Making, the Commission said they were seeking information on how cable sites allow leased access content be submitted via the Internet. Leased Access Programmers Association (LAPA) has always attempted to provide the FCC with accurate and proven information but we have not been given an audience.

For example, from reports provided by active leased access programmers, LAPA is aware of one site where the cable operator's own 'ad insert' sale division delivers both local TV spots for insertion as well as 'long form', half hour or so, shows on the 'local origination' channel via broadband service in the headend. This site uses KeyWest Technology's MediaExtreme equipment.

We have evidence of at least a couple other cable sites where the local operator has a 'third party' contractor that handles local ad inserts, delivering this video content to the headend where they have equipment installed to insert in the appropriate channel.

We have members who deliver programming to the cable TV operator's headends, including "live TV" via the cable site's broadband service to connect to the LAPER's own equipment installed in the headend being charged at some and not at others.

We're aware of headends where leased access programmers are provided Internet delivery at NO charge providing the cable personnel then encodes and inserts the shows in the channel while charging if the LAPER (leased access programmer) chooses to install their own playback/streamer servers.

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Another concern is Charter's boasting of offering 60 mbps to consumers. I have not experienced 60 mbps in the 97850 DMA and despite getting mailers touting the 60 mbps, we cannot receive nearly that speed and most days it's not even close to 30 mbps. In addition to mailers, a recent NYTIMES article<sup>1</sup> boasts of speeds to 60 mbps. This is an area of concern for consumers who are being advertised to and marketed to a service that is not capable of being delivered.

In recent years a company, TelVue, has been successful in having their playback equipment used in numerous cable TV operator headends for PEG and local origination.

We note in the 2007 Notice of Proposed Rule Making, FCC says, "*We seek comment on whether and how the digital transition affects channel capacity and channel count for purposes of the calculation of carriage obligations and average rates. With changes in technology, have cable operators updated their terms of access to facilities? For instance, do they allow programmers to submit video to the operator via the Internet?*"

What, if anything, did the FCC learn from this?

We find FCC stated in one order on a Leased Access 'Petition for Relief', "*The Commission revisited the area of technical costs in its Second Report. There the Commission clarified that the leased access rates determined under Section 76.970 include the cost of technical support ordinarily provided to other programmers.*"

In that local 'ad inserts' are commercial television video and, obviously, any shows on a Local Origination channel are as well, and in light of FCC's concern that cable operator do not exercise any 'market power' over leased access, and local 'ad inserts' and commercial shows on Local Origination channels are not only 'other video programming' but are the most severe competition to local leased access shows for advertising from local businesses.

Does it not make sense LAPers should also be provided reception of Internet signals in the headend as is being done as previously described?

What, if anything, is FCC's position on LAPers being provided the 'same type technical support' as is provided non-leased content providers?

For decades, the FCC, through large part the assistance of cable TV operators has ignored the intent and purpose set forth by Congress when it established leased access provisions.

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<sup>1</sup> <http://www.nytimes.com/2015/06/26/business/media/charter-says-its-mergers-would-do-online-video-no-harm.html?ref=topics>

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As net neutrality and other pertinent issues are recently discussed for the advancement of technology and access for all Americans, it is a crucial time for the FCC to stick to the spirit and intent of the law regarding leased access. We shouldn't be left out in the freezing cold.

Although we, leased access programmers bring to our communities valued and much-needed content and we are a "key and vital player" in the delivery of quality programming for our communities, we are mistreated by cable TV.

The other concern is the long-standing concern of the FCC/Cable TV revolving door of former staffers and commissioners and the cozy relations with cable TV companies. This unfair advantage is an obstacle for us as leased access programmers to deliver to our communities for our friends, neighbors and families. For example, see this article that appeared in *The Economist*:

*For example, Meredith Attwell Baker, when an FCC commissioner, voted to approve Comcast's bid for NBCUniversal in 2011. Four months later she left to join Comcast (she has since gone on to work for the wireless-telecoms lobby). "It is such a revolving door at the FCC and Congress that you can't keep track of whether people are cable lobbyists or working in government," says Marvin Ammori, a lawyer who represents technology firms.<sup>2</sup>*

We are interested in having an open and productive discussion to resolve the decades of latency and ineffectiveness that has stymied the efforts, interests and productivity of Americans interested in providing local content, local news, local programming to our respective communities.

I echo the comments made by Mr. Barry Bahrami, CEO of Commercial Network Services<sup>3</sup> in that regulators should wait until its (Commercial Network Services) dispute is settled and we, as leased access programmers (LAPA) can have definitive, clear and formulated answers to our specific concerns.

Approving this deal without the above requests for answers ensures American consumers will lose more choice, more opportunities by the consolidation and further cast leased access programming in the dark and non-existent, contradicting the intent of Congress.

In the interest of productivity, of progress and of working together, when can we begin this dialogue to engage the FCC, cable TV operators and leased access programmers?

Sincerely,

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<sup>2</sup> <http://www.economist.com/news/business/21621777-lobbying-over-comcasts-bid-create-cable-tv-behemoth-coming-head-tying-up-cable>

<sup>3</sup> <http://apps.fcc.gov/ecfs/comment/view?id=60001097933>

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