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Comments in the Proceeding for the 17th Report about the Status of Competition in the Marketplace for the Delivery of Video Programming.

It should be noted that Video programming is defined as: "Programming provided by, or generally considered comparable to programming provided by, a television broadcast station that is distributed and is exhibited for residential use. The certainly defines leased access television, a mechanism of competition created by Congress but ineptly managed by the Federal Communications Commission. To date, the promise of leased access has not materialized to what it could be and remains a shadow of the vision of Congress. This is due in a large part, rules and actions implemented by the Commission in favor of cable companies, who are a reluctant party to leased access and consider it a nuisance and competition.

Through the works of Chairman Martin and Commissioner Jonathan Adelstein the FCC strived to provide a more balanced playing field between leased access programmers and the cable companies and to enact what Congress had originally envisioned. This cumulated into MB Docket No. 07-42 which would implement new rules for cable companies to be required to follow, that would allow the full promise of leased access TV to be realized. These new rules, were promptly fought by the cable companies, who managed to win a stay in the Sixth Circuit Court of Appeals. The new rules which had there flaws and imperfections addressed many of the concerns of leased access programmers pursuing their dreams of operating a local TV and promoting localism and a voice for their community. Among these issues is the stance of cable companies that they need only offer leased access per head-end and not by community. This issue has been adversely affecting programmers as cable companies consolidated head-ends and reduced the ability of programmers to provide truly local service to a particular community instead of much larger regions. There are many other issues that the stayed rules addressed that remain an impedance to leased access programmers.

It has been going on now for more than 7 years as the Commission has not addressed the concerns of cable companies and the OMB, and let this proceeding languish in the Court of Appeals, while it is held in abeyance. The Commission needs "to piss or get off the pot" in this proceeding, so that at least the needed changes can move forward and reinvigorate the leased access business, so that competition can happen in the marketplace for delivery of video programming.

Respectfully Submitted,

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