

December 17, 2015

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

The undersigned are traditional cable, telecom and municipal distributors of video and broadband services in thousands of small communities throughout the United States, providing service for millions of viewers. We proudly live, work, employ and serve the more rural areas of the United States, which large video distributors often overlook.

For several years, cable distributors and our association in Washington, D.C., have been telling you the video marketplace is broken. The ability of small and mid-sized cable operators to negotiate programming agreements on fair, reasonable, and non-discriminatory terms is frustrated more and more each year by large programming conglomerates that demand ever-increasing rates and forced carriage on broadly distributed levels of service. Not only do these additional networks have low ratings and low consumer interest, but the carriage requirements severely limit our ability to provide broadband, independent programming and more consumer choice. As others have argued in a variety of Commission proceedings, content providers utilize a number of unfair and harmful tactics to maximize their leverage and preclude operators from exercising any meaningful choices for their customers. The results of these tactics make discussions with content providers less like bilateral negotiations and more like edicts from a monarch. Unfortunately for cable operators and millions of their consumers, these tactics have infected all aspects of acquiring programming content.

All of the undersigned are members of the National Cable Television Cooperative (“NCTC”) and are relying upon this group for the purposes of negotiating an agreement with AMC Networks (“AMCN”). NCTC has been trying to negotiate with AMCN since September, and AMCN has engaged in a number of unfair and egregious acts to force members to agree to their terms, including the following:

- **Forced Bundling of Carriage.** AMCN insists all cable operators distribute five services (IFC, WEtv, Sundance, BBC World News, and BBC America) in order to carry their single network with meaningful ratings -- AMC. This is curious because AMCN has declared in its SEC 10-K filing that it does not bundle services.¹
- **Refusal to Provide Unbundled Rates.** AMCN refuses to provide an unbundled pricing list that would provide the prices to acquire its networks on an individual basis. With such information, each network’s value could be independently accessed and there could be real choice in content acquisition. NCTC has been asking for unbundled rate information for months, but AMCN refuses to provide it.
- **Discriminatory Pricing and Carriage.** Based on publicly available information, AMCN is proposing NCTC members pay twice the rate it is charging other cable operators for the same service. It also appears that AMCN is requiring us to distribute carriage of services at a more broadly penetrated level than other larger cable operators.
- **Forced Payment from Consumers that Do Not Even Receive the Service.** AMCN insists operators pay on the total number of their video subscribers instead of the number of subscribers that actually receive the service, meaning consumers will have to pay for services they would not even receive.
- **Misleading Acts.** Under the guise of performing “routine maintenance,” AMCN retuned operators’ receivers for alternative feeds providing no notice and, in many cases, causing service outages affecting consumers and

¹ 2014 10-K filing, p. 13: “We do not currently require distributors to carry more than one of our national programming networks in order to obtain the right to carry a particular national programming network.”

forcing cable operators to deploy crews and trucks to remedy the loss of signal. The resulting chaos could have been entirely avoided simply by providing notice to operators.

- **Deceptive Crawls.** AMCN is running deceptive “crawl” advertising misleading consumers that the loss of AMC’s signal is imminent, despite the fact that AMCN was contractually required to continue providing the services through the end of the year.
- **Removal of Cue Tones Prohibiting Local Advertising.** Despite a 17-year practice of providing cue tones, AMCN removed the cue tones from select operators prohibiting them from inserting advertising during AMCN’s most popular show. The inclusion of advertising is a critical benefit to offset the already high price of programming. Despite multiple requests by individual operators and NCTC, cue tones have not been returned.
- **Duplicity by Owners of AMCN and Cablevision.** In 2013 Cablevision sued Viacom claiming it was engaged in an illegal tying arrangement in violation of federal antitrust laws and asserting Viacom was effectively forcing consumers “to pay for and receive little-watched channels in order to get the channels [consumers] actually want.” Despite characterizing the Viacom practice as “illegal, anti-consumer and wrong,” AMCN’s common owners have given AMCN the green light to behave *exactly the same way* with respect to how AMCN is negotiating with NCTC and its members.

These unfair and deceptive practices harm consumers because they leave small operators with an “overpay or drop” dilemma. As a result of AMCN’s pricing and carriage requirements, many of the undersigned are left with no other choice than to discontinue carrying the AMCN services affecting millions of subscribers throughout the United States. Among those who cannot drop, their customers will be left with more expensive and bloated basic tiers of service.

Larger distributors with more capital and the ability to keep acquiescing to programmer demands have the luxury of delaying until the inevitable tipping point when they simply cannot accept additional forced carriage. For small cable operators, those decisions are being made now. We believe small cable operators are the barometer for the industry and that without relief our ability to provide video and broadband to millions of underserved consumers—indeed our very existence, is in jeopardy.

Sincerely,

[The undersigned consists of 228 independent and predominantly rural providers of video, broadband, and telecommunication services to more than 950 communities across the United States and its Territories, serving 1.7 million video customers.]

Name: William Ironside
Title: President
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Name: Patrice Carroll
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Company: ImOn Communications

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Company: Emery Telcom LLC

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Company: Docomo Pacific

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Company: Ritter Communications

Name: Carolyn Hanson
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Company: MTA Communications

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Coop

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Bband

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Company: Ralls Technologies

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Name:
Title:
Company: Hancock Video

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Company: Eatel & Vision Comm

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Title: Mayor
Company: City of Bardstown

Name: Joan Budd
Title: General Counsel
Company: Cable TV of East Alabama

Name: Mark Stone
Title: VP of Operations
Company: Hart Cable

Name: Keith Skelton
Title: Assistant General Mgr
Company: Sallisaw Municipal
Authority

Name: HAROLD OSTER
Title: AREA MANAGER
Company: RELIANCE CONNECTS

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Company: Zito Media, L.P

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Title: Superintendent
Company: Glasgow Electric Plant
Board

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