



June 17, 2016

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

***RE: Implementation of Section 103 of STELA Reauthorization Act of 2014, MB Docket No. 15-216;
Expanding Consumers' Video Navigation Choices, MB Docket No. 16-42; and Commercial
Availability of Navigation Devices, CS Docket No. 97-80***

Dear Ms. Dortch:

On Thursday, June 16, 2016, Bob Johnson of Dickey Rural Networks (“DRN”) in North Dakota; Dave Osborn of the VTX1 Companies (“VTX1”) in Texas; Rick Vitzthum and Michor Hodgen of the Tenino and Kalama Telephone Companies in Washington; Dana Baker and Judi Ushio of GVNW Consulting; Russell Kacer of YK Communications in Texas; and Patricia Cave and Gerry Duffy representing WTA – Advocates for Rural Broadband (“WTA”) met with David Grossman, Chief of Staff to Commissioner Mignon Clyburn to discuss the challenges WTA members and other rural telecommunications companies face in providing cable television and Internet Protocol (“IP”) video services, including in negotiating retransmission consent and other programming agreements and the impact of the Commission’s proposed video navigation device rules.

Mr. Osborn indicated that VTX1 offers IP video service in its cooperative and competitive local exchange carrier (“CLEC”) service areas in rural South Texas. Portions of his video service areas are located in four different Designated Market Areas (“DMAs”), but he has found the network affiliates to be equally focused upon increasing their retransmission consent rates. VTX1 must also carry and pay for far more channels of satellite programming from suppliers like Home Box Office, ESPN and Disney than its customers really want. Content costs are increasing at such a steady and substantial pace that VTX1’s IP video operation has far surpassed the subscriber level at which its initial business plan in 2005 had indicated it would become profitable, and is still losing money. It has remained in the business to date because many of its customers are located more than 100 miles from an off-air television tower. It has been exploring over-the-top alternatives to its IP video service, but thus far has not gotten much cooperation from the DMA television stations.

Mr. Johnson indicated that DRN offers video via radio frequency (“RF”) overlay on its fiber-to-the-home (“FTTH”) network. He stated that the service is not profitable due to high and increasing content costs, but has been offered as a triple play service to satisfy some of its cooperative members. He indicated that DRN had tried to hold its prices steady for the previous three years, but finally had to impose a \$7.00 per month video rate increase this year, much to the dissatisfaction of some members. Mr. Johnson does not know how much longer DRN can continue offering a video service. He noted that a satellite service had attempted to enter his local market but had left because of its small size. The only video alternatives to DRN’s video service would appear to be the two national satellite networks.

Mr. Osborn noted that many of the consumers in his rural service territory are beyond the reach of their local stations' digital broadcast signals. WTA also stated that several of its members likewise are unable to receive their assigned DMA's local broadcast signals and must invest in transport or obtain third-party transport services to obtain the signals for processing at their head-ends. Broadcasters have been largely unwilling to take these reception into account during negotiation for retransmission consent, instead demanding substantial year-over-year increases for the last decade. WTA suggested that broadcast stations should not be permitted to demand monetary compensation for retransmission consent for those consumers or MVPDs that are outside of the viewing area of free over-the-air broadcast signals.

With respect to the tying of additional non-broadcast networks in retransmission consent agreements, Mr. Osborn noted that each additional channel demanded to be carried as part of a retransmission consent or satellite programming agreement requires additional processing equipment that can be very costly. At the end of the day, every subscriber is required to pay for the additional network through additional pass-through equipment costs and per-subscriber fees regardless of whether such content interests them or not, leaving less room for independent content that might be more relevant. WTA also described the experience of other WTA members in which broadcasters demand carriage of unidentified networks on the same tier as the local broadcast station. WTA argued that this practice is fundamentally unfair and requires MVPDs to agree to carriage when they cannot possibly determine whether such content is desired or even relevant to its subscriber base, and broadcast stations should be prohibited from making such demands in retransmission consent agreements. As a possible solution to the broader issue of consumers being required by programmers to pay for undesired networks, WTA discussed a requirement for MVPDs to offer networks to consumers on an a la carte basis.

Existing non-disclosure provisions contained in retransmission consent agreements prevent MVPDs from disclosing to their customers, advocates and policymakers full pictures of how agreements take shape and the true cause for retail rate increases. WTA urged that additional transparency into the marketplace is critical, both for consumers and policymakers, to understand the true state of the marketplace.

Regarding the Commission's navigation device proposal, WTA, DRN and VTX1 support an exemption from the proposed video navigation device rules for rural telephone companies and other small providers. Such a rule is only likely to become a technology mandate that would be unduly burdensome for small providers which will have little, if any, ability to influence the final outcome and will necessarily need to undertake costly changes to their networks to ensure compliance. Like many other WTA members, DRN and VTX1 have been continuing for some time to provide video services rendered unprofitable by retransmission consent and satellite programming price increases and tying practices that have increased costs well beyond the ability for their customers to pay. They, like many other WTA members, have become increasingly concerned that video service will never become profitable and have been considering the discontinuation of their cable television and IP video services.¹

Mr. Johnson, Mr. Osborn and WTA all indicated that contemplated set top box rules are likely to be the straw that breaks the camel's back for many small providers. They constitute substantial additional costs – for the devices themselves, for licensing and installation of new software and hardware, for system integration and testing, for employee training, for dealing with vendors and security issues, and for assisting customers to use them. WTA members are well aware that customers call them when something is wrong with their service, and that they frequently have to send their maintenance trucks on 50-mile or greater round trips to determine whether the source of video service problems is the

¹ WTA notes that several of its members have discontinued providing MVPD services in the past two years.

company's network, a set top box or a television set. Such exercises are only likely to increase if a substantial number of customers begin purchasing untested set-top boxes off-the-shelf while ultimately relying on the MVPD as a first resort for resolving technical issues and placing blame for malfunctions. Mr. Vitzthum compared this to when consumers purchase off-the-shelf wireless routers and experience quality of service issues. Not only is the result costly for providers in terms of unnecessary truck rolls and employee time but also this will likely cause damage to the perception of an MVPD's quality of service. Whereas a large selection of different set-top boxes may produce competitive and innovation benefits in some urban areas, it will drive up the costs and increase the operating complexities of small service providers who will no have technicians capable of working with five, ten or more different makes and models of set top boxes.

Pursuant to Section 1.1206(b) of the Commission's Rules, this submission is being filed for inclusion in the public record of the referenced proceeding.

Respectfully submitted,

/s/ Patricia Cave

Patricia Cave
WTA, Director of Government Affairs

cc: David Grossman

Attachment