Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	**)**	
	)	
Implementation of Cable Television Consumer	**)**	
Protection and Compensation Act of 1992	**)**	
	)	
Development of Competition and Diversity	**)**	**MB Docket No. 07-29**
In Video Programming Distribution:	**)**	
Section 628(c) (5) of the Communications Act:	**)**	
	)	
Sunset of Exclusive Contract Prohibition	**)**	

Comments of EATEL Video, LLC

EATEL Video, LLC, through undersigned counsel, hereby responds to the Notice of Proposed Rulemaking released in the above referenced docket. EATEL Video, LLC, ("EATEL") a Louisiana Limited Liability Company, launched its television service in March of 2005. As a multi-channel video programming distributor (MVPD), EATEL Video is in direct competition with Cox Communications and Charter Communications in the Ascension Parish and Livingston Parish markets in Louisiana. As a newcomer to the industry, EATEL has a tremendous amount at stake in this proceeding. A decision by the Federal Communications Commission to sunset the prohibition against exclusive contracts would effectively destroy EATEL's ability to offer competitive television services.

I. Has a concern over vertically integrated programmers favoring affiliated cable operators over non-affiliated cable operators and programmers been addressed?

It is EATEL's contention that there still exists concern with regard to cable programmers favoring affiliated cable operators. The potential for favoritism is there and could significantly diminish the ability of EATEL and other smaller operators to obtain programming and compete. Further, the opportunities for imposing significant burdens or unreasonable conditions for obtaining programming may make such programming effectively unavailable. For example, high prices for content, advertising insertion requirements, forced carriage of other programming, and line-up positioning requirements all add burdens that may make such affiliated programming too costly or not feasible for smaller providers. Continued regulation by the Federal Communications Commission related to access to affiliates programming is essential for maintaining competition in the multi-channel video programming distribution market.

II. How has the exclusivity prohibition impacted the general state of competition among MVPD operators?

It is EATEL's belief that the exclusivity prohibition is essential in assuring that competition is able to flourish in its own service area. One of the incumbent cable television competitors in EATEL's service area has taken every opportunity to eliminate programming available to EATEL. For example, EATEL was originally able to offer rebroadcast of local news through a particular network affiliate. Though the terms of agreements reached by the incumbent and local broadcasters were not made available to EATEL, it is EATEL's belief that an exclusive agreement was signed with the incumbent cable TV provider to prevent EATEL from obtaining such programming. Likewise, EATEL was prohibited from carrying KZUP, originally carried on EATEL Channel 13, and LPB Kids & You, originally carried on EATEL Channel 11, due to what EATEL believes are exclusive agreements between the content providers and Cox. It is EATEL's belief that a direct fiber feed arrangement was made in each instance. Though these examples are related to content in the local market, EATEL fears similar loss of content if the prohibition against exclusive agreements in the satellite market is not preserved. Though such arrangements in the local market are not specifically prohibited by the rule at issue, the spirit of the rule is violated by these types of arrangements.

The prohibition on exclusive contracts for satellite cable programming or satellite broadcast programming between vertically integrated programming vendors and cable operators has allowed entities like EATEL Video to enter the cable television business. The various examples cited above could be duplicated many times over without the express prohibition against such arrangements related to satellite programming. Without such prohibitions, EATEL fears that comparable programming would simply not be available to competitive providers of television service.

III. Whether developments in the marketplace since the passage of the 1992 Cable Act and the FCC's 2002 Sunset Review have diminished or increased the need for exclusivity prohibition

Among other issues raised, the Federal Communications Commission specifically asked for comment related to the impact of the increased provision of MVPD services by local exchange carriers ("LECs"). EATEL Video, LLC is an affiliate of East Ascension Telephone Co., LLC, a rural incumbent local exchange company operating in Louisiana. Entry by a large entity such as a Regional Bell Operating Company ("RBOC"), does not automatically equate to benefits for rural LEC affiliates. The potential market power held by such entities can never be matched by rural LECs and their affiliates. Even if there is an increase in competitive entry by larger local exchange carriers in the future, the Federal Communications Commission's rules should acknowledge the need to preserve competition in rural areas by maintaining the prohibition on such exclusive contracts. Further, the competitive response by incumbent cable operators to entry of large local exchange carriers may further incent incumbent cable operators to secure exclusive programming arrangements to stifle such competition. The need for an exclusivity prohibition is increasingly necessary as larger providers enter the television market and smaller providers continue to struggle to gain access to content.

IV. Whether competitive MVPDs access to vertically integrated programming such as CNN and HBO remains essential to successful implementation of competitive services

The ability of EATEL Video to continue offering competitive service is dependent on regulations mandating access to such programming. It is EATEL's belief that given an opportunity, incumbent cable television operators would close every avenue possible for access to such programming. Access to national and regional sports programming is likewise vital to meaningful competition. As cited previously, the seemingly exclusive agreement with regard to former Channel 13 (KZUP) created a problem with regard to obtaining sports coverage of Louisiana State University athletic events provided solely on such network. Access to such vertically integrated programming and national and regional sports programming is essential to EATEL's continued operation.

V. Should the Federal Communications Commission establish time frames for review and triggers for automatic abolition of the prohibition?

It is EATEL Video's belief that, at a minimum, the prohibition at issue should be extended for at least another five years. Access to programming is essential to EATEL's ability to provide consumers with a competitive choice for television. Further, it is EATEL's contention that an automatic trigger or trigger event that would result in the abolition of the exclusive prohibition is not consistent with the public interest. The market conditions in each market may be different and should be evaluated before sunsetting the prohibition. An extension of the prohibition is essential to EATEL's survival in the market.

CONCLUSION

EATEL Video's ability to compete as a multi-channel video programming distributor is contingent on continued prohibition against such exclusive contracts. One of the incumbent competitors in EATEL's television service area has made every effort to circumvent EATEL's ability to provide competitive local programming (programming originally carried by EATEL at the time of its March 2005 launch of service) by using direct fiber feeds to obtain such programming on an exclusive basis. EATEL fears that a removal of this prohibition will result in a drastic decrease in other programming available to EATEL, and thus, would impair its ability to provide quality service to its customers.

EATEL Video therefore, implores the Federal Communications Commission to continue such prohibition on exclusive contracts for satellite cable programming or satellite broadcast programming between vertically integrated programming vendors and cable operators, and hereby prays for consideration of its comments filed herein.

RESPECTFULLY SUBMITTED,

/s/ Janet S. Britton________________

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