



January 23, 2015

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Greg Walden
Chairman
Subcommittee on Communications and
Technology
U.S. House of Representatives
Washington, DC 20515

The Honorable Anna G. Eshoo
Ranking Member
Subcommittee on Communications and
Technology
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Upton and Walden, Ranking Members Pallone and Eshoo, and Members of the House Energy & Commerce Committee:

On behalf of TVfreedom.org, we respectfully submit these comments in response to the Committee's white paper on video content and distribution. We appreciate the opportunity to provide input as you move forward with legislative efforts to update the Communications Act.

During the past several years, the advent of multiple online video platforms available on high-speed broadband networks has helped spur competition, investment and innovation in the video marketplace. The emergence of online video has created additional competitive choices for consumers on various digital platforms, yet many Americans are still unable to take full advantage of these services due to the lack of accessibility and/or affordability.

The power, reach and reliability of **free and local broadcast TV** remains the one true equalizer in the video marketplace, particularly since the nation's television viewers can rely on local broadcasters being on the air during emergencies. TV broadcasters remain a vital lifeline in times of crisis and help stimulate local commerce in communities across America. In efforts to modernize the Communications Act, Congress must take into consideration the pivotal role of free and local TV broadcasting as the lifeblood of our nation's communications ecosystem.

Central Question

Any legislative reform effort should address a core issue central to the future of the video marketplace: How does Congress create an environment that enables local broadcast TV stations to compete against giant national pay-TV interests in an increasingly competitive market?

With pay-TV cord-cutting increasing and niche multicast broadcast networks expanding, a growing number of U.S. households are turning to free over-the-air broadcast TV on multiple digital platforms to access the most popular general entertainment and live sports events, local news and programming, severe weather updates, and emergency alerts and warnings.

Broadcast TV's Future Role

New entrants should have an opportunity to effectively compete in the nation's communications landscape, and especially in the rapid and cost-efficient delivery of video content to the American consumer over a variety of wireless and wireline platforms. Today, companies like [TabletTV](#) provide consumers with greater choices for video service with next-generation broadcast-centric services that will soon dramatically alter the face of the U.S. communications ecosystem. Yet, the overwhelming consumer preference for popular local broadcast TV programming could be denied if local TV stations are not afforded an opportunity to advance and expand their business model and serve their local communities under a future policy framework.

Suite of Local Market Rules Needed

The unique benefits of localism could be lost if Congress fails to enact and promote laws and policies that protect the ability of broadcasters to distribute their content in the marketplace. Any new framework should focus on creating a suite of local market rules that support free-market retransmission consent negotiations and broadcast exclusivity rules.

Retransmission Consent -- Concerns expressed over TV blackouts resulting from stalled negotiations in programming disputes between pay-TV service providers and TV broadcasters are greatly exaggerated. In 2014, there were [11 TV blackouts](#) caused by retransmission consent disputes, the majority of which were settled within a few days. In contrast, hundreds of retransmission consent deals are negotiated each year without programming disruptions to America's pay-TV subscribers -- the current system ensures that broadcasters receive fair compensation from pay-TV companies for providing the nation's most-watched programming.

The argument that retransmission consent fees drive up consumer monthly bills presents a red herring. The total complement of broadcast TV channels on a consumer's monthly cable and satellite TV bill costs approximately \$3.50. For comparison sake, consumers now pay three times that price in monthly fees to rent just one DVR.

In addition, cable network content and regional sports network fees account for approximately [90 percent](#) of all programming costs on pay-TV customers' monthly bills. In the effort to update the Communications Act, Congress has a unique opportunity to further examine the true underlying cause for pay-TV customers' [annual price increases](#) that consistently outpace the rate of inflation.

Broadcast Exclusivity -- Content, and the right to protect it, is inherent to the value of local broadcasting. Local TV stations that contract for exclusive rights to network programming better position themselves in a free-market environment to generate the very revenue streams that they need to produce the local news and programming that their viewers appreciate, value and have come to expect.

The FCC's broadcast exclusivity rules do not grant broadcasters anything contractually, they simply provide broadcasters with effective tools to enforce the agreements they've established with other companies regarding programming rights and distribution. These rules enhance market efficiency by enabling TV stations that have negotiated exclusive programming rights in local markets to notify pay-TV providers of their contractual rights and to enforce those rights at the FCC.

A modern regulatory regime should recognize the tremendous benefits that localism provides to America's television viewers and implement laws and policies that maintain these important enforcement tools and provide local TV stations with the support they need to continue producing and delivering high quality local content to the communities they serve.

Closing

Legislation designed to support and advance free and local broadcast TV for the benefit of consumers and local markets is critical to the future of the U.S. video marketplace. We look forward to working with your Committee in a positive, constructive manner as you accelerate the legislative activity related to a comprehensive update of the Communications Act.

Sincerely,

Robert C. Kenny

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