



The voice of mid-size communications companies

April 23, 2015

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

Re: *Ex Parte* Communication: MB Docket No. 14-261

Dear Ms. Dortch:

On April 21, 2015, Jeb Benedict of CenturyLink and the undersigned of ITTA met with Bill Lake, Diana Arrieta, Steve Broeckaert, Michelle Carey, Mary Margaret Jackson, Mary Beth Murphy, Nancy Murphy, Brendan Murray, and Alison Neplokh in the Media Bureau to discuss the FCC's Notice of Proposed Rulemaking seeking comment on whether to expand the definition of multichannel video programming distributor ("MVPD") to include certain over-the-top ("OTT") video providers.¹

We informed staff that ITTA members see merit in extending certain "privileges," such as the retransmission consent and program access rules, to any OTT services categorized as MVPDs in order to ensure reasonable, affordable access to content for video programming distributors and their customers. However, we advised the Commission that it may not make sense to apply certain "obligations," such as the signal leakage, inside wiring, and navigation device rules, to such providers because the rules either have no application in the online context or would lead to significant burdens and costs with no countervailing public benefit. We urged the Commission to ensure that its video policies promote regulatory parity, and indicated that to the extent the Commission determines a lighter touch regulatory framework is appropriate for OTT providers categorized as MVPDs, it must consider scaling back the more onerous (and outdated) regulatory framework applicable to traditional MVPDs, particularly those obligations applicable to cable operators, so as to promote competition, facilitate the IP transition, and minimize marketplace distortions arising from government involvement.

We described some of the challenges ITTA member companies face as new entrant video providers in gaining access to programming. Among other things, we stressed the importance of strong program access protections in order to obtain access to critical, vertically-integrated programming, and urged the FCC to address deficiencies in its complaint process to provide a meaningful avenue of relief for smaller and new entrant video providers.

¹ *In the Matter of Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services*, MB Docket No. 14-261, Notice of Proposed Rulemaking, FCC 14-210 (rel. Dec. 19, 2014).

Marlene H. Dortch

April 23, 2015

Page 2

We also discussed the positive impact that the provision of video services has on furthering the FCC's broadband deployment and adoption goals. Offering video services enables ITTA members, despite commonly being fourth or fifth to enter the market, to compete more effectively, which benefits consumers. More critically, the incremental revenue from video services is essential to justify the vast investment needed to enable the high-speed broadband network deployment and upgrades that the Commission's policies strive to encourage. Without that investment, broadband networks cannot keep pace with the growth in bandwidth demand, as broadband providers cannot realistically meet expectations for high-speed capabilities purely as a low-priced broadband pipe.

We also pointed out that ITTA members and other MVPDs commonly encounter and are forced to accept program tying, where carriage of marquee programming is tied to carriage of less popular programming. We explained how such conduct hampers our ability to offer video programming packages that may be more tailored to consumer preferences. We urged the Commission to address wholesale bundling and other coercive practices by programmers as part of its broader retransmission consent and video policy reform efforts.

Please do not hesitate to contact the undersigned with any questions regarding this submission.

Respectfully submitted,



Micah M. Caldwell

Vice President, Regulatory Affairs

cc: Bill Lake
Diana Arrieta
Steve Broeckaert
Michelle Carey
Mary Margaret Jackson
Mary Beth Murphy
Nancy Murphy
Brendan Murray
Alison Neplokh