

Congress of the United States
Washington, DC 20510

April 14, 2015

352

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

Dear Chairman Wheeler:

As you know, for decades the Federal Communications Commission (FCC or Commission) and Congress have been examining local television Designated Market Areas (DMAs) and the “orphan counties” that exist within them. These orphan counties are assigned to a television market in one state, while their residents live in another state. Coloradans in two orphan counties, La Plata and Montezuma, have long been trying to access their in-state news, weather, and sports over their satellite pay TV services. Luckily, the recently-passed Satellite Television Extension and Localism Act Reauthorization (STELAR) Act provided the Commission with the authority to resolve their concerns, and we are pleased to see the FCC acting expeditiously to put in place the rules necessary to implement this statute. We urge you to make the market modification process as effective as possible, including by allowing certain local governments to file for market modifications.

Under Section 108 of the STELAR Act, the FCC has authority to determine who should be allowed to file a written request asking for a local market modification, and the FCC has sought public comment on this question in its rulemaking. We believe a County Commission is an appropriate body to make this request on behalf of the county residents they are elected to represent. Allowing a County Commission to make such filings on behalf of the county’s residence would facilitate the ability of a community to voice its own opinion about the local television content that it would prefer to access. Similarly, we encourage the Commission to make a local market modification effective for an entire county, which would further the underlying intent of the STELAR Act and the market modification process.

As you are aware, in 2011, the Federal Communications Commission looked specifically into consumer access of in-state broadcast television signals. This report cited numerous resident comments from Coloradans located in La Plata and Montezuma County. One constituent from La Plata County, Colorado said that in her 15 years as a resident of the county, she had “never seen any of the state’s governors or other elected representatives on television.”¹ Another couple

¹ FCC MB Docket No. 10-238: Mary Gillam indicates that in her 15 years as a resident of La Plata County, Colorado she has never seen any of the state’s governors or other elected representatives on television. She also asserts that regulators should not presume that the Internet is a substitute for local television in the provision of local news in orphan counties.

from La Plata County wanted to ensure that the FCC did not give undue preference Nielsen ratings for local DMAs because it presumes viewers have a choice in which geographic broadcast stations they prefer, which they do not.²

As is clear from these filings, our constituents in these two counties care deeply about this issue. Providing a means for citizens of Montezuma and La Plata Counties, as well as those living in other orphan counties, to express their desire for a local market modification is essential to realizing the full benefits of this process. Consumers residing in counties assigned to an out-of-state DMA should be able to inform their locally elected representatives about their preferences for local broadcast stations, and in turn the Commission should provide a pathway through Section 108 of STELAR Act to address the situation. Such a process would not unduly burden the Commission and would further the goals of this provision.

I look forward to working with the Commission to provide residents in my home state of Colorado and the counties of La Plata and Montezuma a path forward to the in-state broadcast content they desire to access. Please do not hesitate to contact me or my staff should any questions or concerns arise.

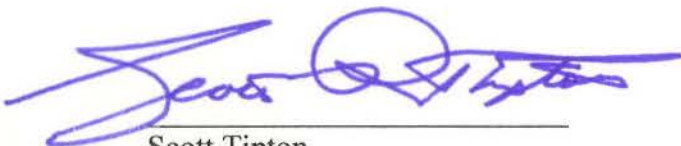
Sincerely,



Michael F. Bennet
U.S. Senator



Cory Gardner
U.S. Senator



Scott Tipton
Member of Congress

² FCC MB Docket No. 10-238: Other commenters, such as David and Nancy Smith of La Plata County, Colorado, fault Nielsen audience surveys that attempt to discern viewer preferences. They state that, although Nielsen routinely reports that viewers in La Plata County watch New Mexico broadcast stations, the term "preference" in Nielsen's audience survey is misleading, because it presumes viewers have a choice, which they do not.