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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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May 8, 2015

The Honorable Tom Wheeler
Chairman, Federal Communications Commission
445 12th St SW
Washington, DC 20536

Dear Chairman Wheeler:

As a co-author of the STELA Reauthorization Act (STELAR), I am writing to you about the scope of the Federal Communications Commission's (FCC) effort to implement section 111 of the Act. On March 16, the FCC adopted a Notice of Proposed Rulemaking (NPRM) proposing to reverse the longstanding presumption that cable operators are not subject to effective competition and must establish that they are in a competitive market before receiving relief from certain regulations. Section 111 of STELAR directed the FCC to take steps to streamline the process for small cable operators to file effective competition petitions, but the FCC's current rulemaking proposal appears to do much more. I strongly encourage you to separate the broader question of whether to reverse the effective competition presumption for all cable operators from the narrow directive Congress gave you to provide small operators with some relief.

Section 111 was purposefully focused on small cable operators, particularly those in rural areas. In places like Vermont, small operators offer consumers a valuable service and are often a key provider of broadband access. There is no doubt that small, rural providers face a number of challenges. Rather than enacting wholesale changes to the regulatory regime governing all cable companies, Congress instead focused in STELAR on leveling the playing field so that small operators can utilize the same administrative procedures that are readily accessible to larger ones. The FCC should take this directive at face value.

STELAR was the bipartisan product of careful negotiation between the Senate and House, particularly on important questions of how to enact reforms to the video marketplace. The Act reflects compromise between Democrats and Republicans, as well as with stakeholders ranging from small cable operators to large content producers. We provided the FCC with deadlines to adopt the reforms that were enacted to ensure that they took effect in a timely manner. It is surprising to see our deadlines used to adopt sweeping changes to the marketplace that are much broader than what was contemplated by the Act.

While I have heard from stakeholders who have expressed serious concerns about the broad policy changes the FCC is proposing to adopt in the NPRM, I believe that discussion is best left to another proceeding or legislative action. If the FCC can act within its authority and build a record that supports making broader changes, it is within its rights to do so.

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I do not believe, however, that the STELAR implementation process and the Congressionally mandated deadlines therein represents the appropriate vehicle to make such changes. I encourage you to reconsider your current path and use the section 111 proceeding in the narrow way in which Congress intended. Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Leahy". The signature is fluid and cursive, with the first name "Patrick" and last name "Leahy" clearly distinguishable.

PATRICK LEAHY

Ranking Member