



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

June 3, 2015

The Honorable Anna G. Eshoo
U.S. House of Representatives
241 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Eshoo:

Thank you for your letter expressing your support for the Commission's proposal to update its implementation of the Effective Competition provision of the 1992 Cable Television Consumer Protection and Competition Act (the 1992 Cable Act).

The proposal being considered by the Commission reflects the changes in the video marketplace that you describe and that Congress envisioned when establishing its definition for Effective Competition in the 1992 Cable Act. Prior to the passage of the 1992 Act, incumbent cable operators had approximately a 95 percent market share of multichannel video programming distributor (MVPD) subscribers. Satellite television was not yet an option, and phone companies had just begun to offer video programming to consumers. Congress sought to encourage new entrants into the marketplace and established standards¹ for determining when local franchising authorities could, in the absence of Effective Competition, choose to step in and regulate cable rates.

The nationwide presence of DIRECTV (which provides local broadcast channels to 197 markets representing over 99 percent of U.S. homes) and DISH Network (which provides local broadcast channels to all 210 markets), alongside the significant number of direct broadcast satellite (DBS) subscribers (34.2 million or 33.9 percent of MVPD subscribers)² and subscribers (11.3 million) who receive their video programming through Verizon, AT&T, or other Local Exchange Carriers, demonstrate the changed realities of marketplace. As a result, the FCC has granted Effective Competition petitions in over 10,000 communities thus far, resulting in an approval rate of more than 99.5 percent of the communities evaluated since 2013.


¹ The statute defines four types of Effective Competition: Competing Provider Effective Competition, Low Penetration Effective Competition, Municipal Provider Effective Competition, and Local Exchange Carrier (LEC) Effective Competition. Only a presumption of Competing Provider Effective Competition is at issue in this proceeding. The statutory test for the type of Effective Competition at issue in the proposed Order is satisfied if the franchise area is "(i) served by at least two unaffiliated [MVPDs] each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and (ii) the number of households subscribing to programming services offered by [MVPDs] other than the largest [MVPD] exceeds 15 percent of the households in the franchise area." 47 U.S.C. § 543(l)(1).

² *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Sixteenth Report, 30 FCC Rcd 3253, 3256, ¶ 2, and 3300-01, ¶¶ 112-113 (2015) ("16th Annual Video Competition Report").

I share your concern that continued adherence to outdated regulations causes particular harm to small cable operators, which often serve communities overlooked by larger providers. In proposing a rebuttable presumption that cable systems are subject to Competing Provider Effective Competition as defined by Congress, the item reflects the current marketplace, while preserving a role for local franchising authorities that demonstrate a lack of competitive options for consumers.

I appreciate your interest and support in this matter, and your views will be included in the record of the proceeding for the Commission's review. Please let me know if I can be of any further assistance.

Sincerely,



Tom Wheeler



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THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

June 3, 2015

The Honorable Steve Scalise
U.S. House of Representatives
2338 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Scalise:

Thank you for your letter expressing your support for the Commission's proposal to update its implementation of the Effective Competition provision of the 1992 Cable Television Consumer Protection and Competition Act (the 1992 Cable Act).

The proposal being considered by the Commission reflects the changes in the video marketplace that you describe and that Congress envisioned when establishing its definition for Effective Competition in the 1992 Cable Act. Prior to the passage of the 1992 Act, incumbent cable operators had approximately a 95 percent market share of multichannel video programming distributor (MVPD) subscribers. Satellite television was not yet an option, and phone companies had just begun to offer video programming to consumers. Congress sought to encourage new entrants into the marketplace and established standards³ for determining when local franchising authorities could, in the absence of Effective Competition, choose to step in and regulate cable rates.

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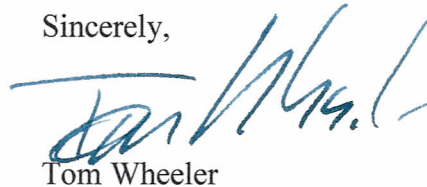
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Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish extending from the end.

Tom Wheeler