

United States Senate
WASHINGTON, DC 20510

999

October 1, 2015

The Honorable Thomas Wheeler
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington DC 20554

Dear Chairman Wheeler:

I write today to urge you not to move forward with your proposal changing the network non-duplication and syndication exclusivity rules.

The existing rules were passed in the context of a broad, complicated regulatory system that closely ties non-duplication and exclusivity to the compulsory license. Your Media Bureau Chief has argued that these rules are not in fact linked because they were not all passed at the same moment in time; however, even he acknowledges that the relevant stakeholders only agreed to support the exclusivity rules as part of a broader agreement to move forward with compulsory license legislation as a part of copyright reform in the 1970s. Since the passage of the Communications Act of 1992, Congress has had multiple opportunities to revisit the question of whether retransmission consent has changed the need for the exclusivity rules and Congress has repeatedly declined to disrupt the broader regulatory system, including in the STELAR legislation that passed just last year.

You have argued that the exclusivity rules are outdated and need to be revisited; you may very well be correct that the time has come for a closer look at the complex regulatory and statutory scheme that governs the broadcasting industry, including the interplay of broadcasting regulation with copyright law. It is very clear that technological and market innovations have changed the nature of broadcasting dramatically. And, certainly, no party to the current system is entirely happy with how it is working. However, that look must be comprehensive, and must include a broad, public dialogue with Congress and all the relevant stakeholders. It is not appropriate or consistent with Congressional intent for the Commission to unilaterally disrupt one aspect of the current regulatory and statutory regime outside of the context of that broader debate.

I would encourage the Commission to work with members of Congress on these issues; we would welcome your input and expertise. In the interim, however, I hope that you will

refrain from moving forward with a proposal that does not have adequate input from relevant stakeholders and will foster controversy rather than consensus.

Sincerely,

A handwritten signature in blue ink that reads "Charles E. Schumer". The signature is fluid and cursive, with the first name "Charles" and last name "Schumer" clearly legible.

Charles E. Schumer

cc:

Commissioner Mignon Clyburn

Commissioner Jessica Rosenworcel

Commissioner Ajit Pai

Commissioner Michael O'Rielly