



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 11, 2020

The Honorable Anna G. Eshoo
U.S. House of Representatives
202 Cannon House Office Building
Washington, DC 20515

Dear Congresswoman Eshoo:

Thank you for your letter regarding the Commission's enforcement of the Commercial Advertisement Loudness Mitigation (CALM) Act. Under the statute, a station or multichannel video programming distributor (MVPD) is "deemed in compliance" with the CALM Act if it has installed, uses, and maintains the required equipment and software. The Commission's rules permit a station or MVPD multiple methods to demonstrate compliance, such as by showing either that the commercial in question complied with the standards of the CALM Act, demonstrating that they have installed the required equipment, or by conducting "spot checks" showing that they are in compliance with the standards or correcting any deficiencies. As with all enforcement matters, the Commission takes seriously its role in ensuring compliance with the CALM Act regulations.

Pursuant to the rules the Commission adopted in 2011 implementing the CALM Act, enforcement of the CALM Act starts with analysis of complaints filed by consumers to identify patterns or trends of potential non-compliance with CALM Act regulations by TV stations or MVPDs. Complaints are filed by consumers through the Commission's Consumer Complaint Center, and the Consumer and Governmental Affairs Bureau refers any loud commercial complaints to the Enforcement Bureau. The Enforcement Bureau then reviews those complaints, taking into account the station or MVPD, the program, the commercial, geographic factors, and timing. If the analysis of complaints uncovers a trend or pattern, the Bureau issues a letter of inquiry.

In 2013, the Enforcement Bureau sent letters of inquiry to two separate companies addressing potential violations of the CALM Act and associated regulations. There were no violations found in either case and there are no public documents associated with these letters of inquiry. Since the 2013 letters of inquiry, the Enforcement Bureau analyses have not uncovered any pattern or trend of complaints supporting further inquiry.

Per your request, below are two charts that provide data on the total number of complaints filed by year and the top five companies which received the most complaints each year. As you will see, after the initial implementation of the CALM Act and the new complaint form, the number of overall complaints has trended downward dramatically since 2013, which may be due to the efficacy of the CALM Act and the technical standards promulgated by our rules. In particular, the Commission's 2014 update of the technical standards for loudness measurements addressed and discouraged commercials that attempt to use silent passages in an advertisement to offset excessively loud audio when the average loudness is calculated. With the

updated standard, consumers should have noticed a decrease in the overall perceived loudness of certain commercials.

YEAR	TOTAL COMPLAINTS
2008	226
2009	341
2010	210
2011	272
2012	5,439
2013	16,310
2014	7,146
2015	4,413
2016	2,997
2017	2,446
2018	3,380
2019	1,877
2020*	1,241

*As of 7/31/2020

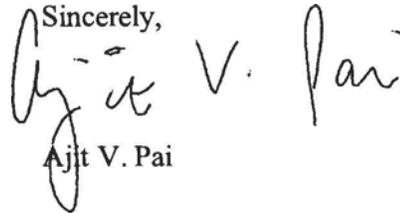
YEAR	TOP FIVE COMPANIES	YEAR	TOP FIVE COMPANIES
2015	DirecTV	2018	DirecTV
	Comcast		Comcast
	Time Warner (now Charter/Spectrum)		Time Warner (now Charter/Spectrum)
	Verizon		Charter
	Dish		AT&T
2016	Comcast	2019	DirecTV
	DirecTV		Comcast
	Verizon		AT&T
	Time Warner (now Charter/Spectrum)		Cox
	Charter		Verizon
2017	Comcast	2020*	Comcast
	DirecTV		DirecTV
	Mediacom		AT&T
	Time Warner (now Charter/Spectrum)		Dish
	Cox		Charter/Spectrum

* As of 7/31/2020

The Consumer and Governmental Affairs Bureau does not have data regarding the top five companies before 2015. The Bureau created the first loud commercial complaint form when the rules implementing the CALM Act became effective in 2012, but tabulating provider information is challenging because of the way the form collected the information. The Consumer Complaint Center, launched in 2015, enables the Bureau to more accurately track the provider indicated by consumers when filing their complaints.

Finally, as you note, the CALM Act does not apply to radio or streaming services. Accordingly, the Commission does not have the authority over such services in this regard and has neither collected data from them nor studied the broader issue of commercial volume across these or other similar platforms.

Please let me know if I can be of any further assistance.

Sincerely,

Ajit V. Pai