



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

April 8, 2022

The Honorable Adriano Espaillat
U.S. House of Representatives
2332 Rayburn House Office Building
Washington, DC 20515

Dear Representative Espaillat:

Thank you for your letter regarding programming issues for consumers who subscribe to multichannel video programming distributors (MVPDs). I agree that it is unfortunate that consumers can be caught in the middle when there are channel lineup changes or blackouts when negotiations fail between MVPDs and the entities that provide the programming. The Federal Communications Commission provides information on our website to help consumers navigate these issues when they occur, but the Communications Act generally allows MVPDs wide discretion to determine which cable programming channels to carry on their systems.

Section 616 of the Communications Act and the corresponding Commission rules prohibit MVPDs from engaging in certain anti-competitive behaviors. Specifically, MVPDs may not require a financial interest in a program service as a condition of carriage, or coerce a video programming vendor to provide exclusive rights (or retaliate against such vendor for refusing to provide exclusive rights) as a condition of carriage. In addition, the statute and rules prohibit MVPDs from discriminating against unaffiliated video programming vendors. The Commission becomes involved if an entity files a complaint alleging a violation of the rules. Our rules specify time frames in which the Commission must act on complaints and, if a violation is found, the statute provides the Commission with authority to impose penalties, including mandatory carriage.

Unlike other programming, cable operators are statutorily required to carry broadcast television stations on their systems. Although satellite providers do not have a similar requirement, they are required to carry all of the local television stations in a market where they choose to offer a local station package. Cable and satellite providers must get the consent of each television station before carrying the signal on the system—either by the station electing carriage via the Section 614 of the Communications Act or by entering into a retransmission consent agreement under Section 325 of the Communications Act. For retransmission consent disputes, the Commission does not have the authority to require carriage of stations if negotiations fail and the Commission only becomes involved if one of the parties files a complaint alleging that there has been a violation of the good faith negotiation rules.

If an MVPD changes its channel lineup, Commission rules require MVPDs to provide notice to customers at least 30 days in advance of a change in rate or service, unless the change is outside of their control—such as failed retransmission consent or program carriage

negotiations. In such cases, the rules allow for MVPDs to provide notice as soon as possible using any reasonable written means.

As you note, at my confirmation hearing I committed to working with Congress to review issues related to competition in the video marketplace, including the impact on independent programmers. Ultimately, it is the consumer who is harmed when there are channel changes that are hidden in the fine print of their monthly bills or when there are extended blackouts due to failure of the parties to reach agreement. I believe that consumers deserve refunds for these extended blackouts and that the MVPDs should provide clearer notice when there are channel changes.

In 2019, as part of the Television Viewer Protection Act (TVPA), Congress required MVPDs to provide better, more explicit, notice to new customers regarding promotional rates and other fees that go into the monthly rate. That was an important first step, but more should be done. Last December, on the one-year anniversary of the effective date of that legislation, the agency issued a Public Notice, seeking comment on its implementation. We are reviewing that record to determine whether further action is warranted consistent with the TVPA.

I stand ready to work with your office on these important issues and provide assistance on any legislation you may wish to consider to improve the consumer experience.

I hope this is helpful. Please let me know if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Rosenworcel", with a long horizontal flourish extending to the right.

Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

April 8, 2022

The Honorable Jan Schakowsky
U.S. House of Representatives
2367 Rayburn House Office Building
Washington, DC 20515

Dear Representative Schakowsky:

Thank you for your letter regarding programming issues for consumers who subscribe to multichannel video programming distributors (MVPDs). I agree that it is unfortunate that consumers can be caught in the middle when there are channel lineup changes or blackouts when negotiations fail between MVPDs and the entities that provide the programming. The Federal Communications Commission provides information on our website to help consumers navigate these issues when they occur, but the Communications Act generally allows MVPDs wide discretion to determine which cable programming channels to carry on their systems.

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