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United States Senate

CHARLES E. GRASSLEY
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February 21, 2023

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The Honorable Jessica Rosenworcel
Chairwoman
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554

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Dear Chairwoman Rosenworcel:

I am following up on the letter I sent to you in May of 2022 regarding the request I received from local television stations associated with the Television Operators Caucus that the FCC take action in the pending rulemaking proceeding, MC-Docket No. 14-261, in which the Commission proposes to treat internet-based video distribution services that offer multiple streams of linear television programming as multichannel video programming distributors (MVPDs) for the purpose of Section 325 of the Communications Act.

As you know, local television stations share that much has changed in the video marketplace since the opening of the docket in 2014 and that over the top services – commonly referred to as “virtual” MVPDs – now occupy a substantial and still-growing portion of the video programming distribution market. However, they are not subject to the same regulations as the traditional cable and satellite distributors with whom they compete. These internet-based distribution services are not treated as MVPDs for purposes of the retransmission consent rules. Local stations argue that this regulatory disparity in the FCC’s interpretation of Section 325 poses a real threat to the critical news, weather, and emergency information services provided by local stations to communities throughout Iowa and the whole United States. These stations explain that severe and lasting harm will be done to the local video programming ecosystem if “virtual” MVPDs that provide linear local television programming to their subscribers are not treated as MVPDs for the purposes of retransmission consent.

Enclosed please find a letter I recently received from KCCI explaining that it is experiencing the negative, real-world consequences of being cut out of negotiations, the result being that this local station is being blocked out of many homes in Central Iowa. I ask that these concerns be given all due consideration.

Committee Assignments:

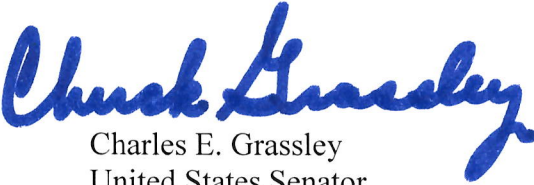
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Thank you for your time and prompt attention to this matter. Please do not hesitate to contact my Washington, D.C. office if I can be of assistance regarding this matter.

Sincerely,



Charles E. Grassley
United States Senator

cc The Honorable Geoffrey Starks
The Honorable Brendan Carr
The Honorable Nathan Simington



February 15, 2023

The Honorable Charles Grassley
United States Senate
135 Hart Senate Office Building
Washington, DC 20510

Dear Senator Grassley,

I am writing you today to call to your attention an important matter affecting my business. KCCI, Central Iowa's leading local broadcast station, is currently not being carried on Fubo TV, a digital streaming service that delivers multiple channels of video programming, including local broadcast channels, over the internet. Fubo TV currently has over a million subscribers nationwide, with estimates of up to 10,000 subscribers in Iowa alone. Unfortunately, these households aren't receiving local Iowa news such as, emergency weather updates, local political news, and local sports coverage such as the ongoing high school state wrestling tournament. KCCI isn't alone. Many other Iowa CBS affiliates are also blacked out on Fubo TV

I know that you and your Staff have observed the changing video programming marketplace, particularly the evolving ways video is distributed, including the content of local television broadcasters. Unfortunately, the current FCC regulatory framework has not kept pace with these changes. As a general manager of a television station, I have serious concerns about the impact these changes are having on my two main sources of revenue (advertising and retransmission consent fees), which are essential to producing high quality news, weather, and other locally focused programming.

As you are aware, the marketplace has seen the emergence and rapid rise of streaming services that distribute linear television such as FuboTV. These platforms are often referred to as virtual multichannel video programming distributors, or "vMVPDs". They are currently unregulated by the FCC, despite the fact that they mirror traditional cable and satellite distribution platforms.

The most significant impact of this disparate treatment is that our stations are being prevented from negotiating directly with these platforms, contrary to the statutory framework designed by Congress for traditional cable and satellite companies. The media conglomerates (Disney, Comcast-Universal, Fox Television and Paramount Global) that own the four largest television networks (ABC, NBC, FOX and CBS) have cut local broadcasters out of negotiations for carriage of their signals on these platforms. Instead, these media giants negotiate directly with the vMVPDs – to the benefit of the conglomerates' broader asset portfolios and detriment of local television stations – and then present "take-it-or-leave-it" proposals to local network-affiliated stations like ours.

Right now, KCCI is experiencing the real-world, negative consequences of being cut out of negotiations with FuboTV. Paramount Global, which owns the CBS Television Network, presented our CBS-affiliated station with a take-it-or-leave-it proposal for carriage on FuboTV. Incredibly, Paramount negotiated the deal with FuboTV without



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consulting or discussing the terms with me or any of our sister CBS-affiliated stations here in Iowa.

Perhaps not surprisingly, the Paramount Global deal was a bad deal for local stations, including below-market economics and onerous distribution terms. As such, KCCI was forced to reject this unfair proposal, despite the harm it is imposing on our stations economically. We have been joined by more than 100 other local CBS-affiliated stations across the country. As a result, KCCI was removed from the FuboTV service on Monday, January 30. In place of our local stations, CBS authorized FuboTV to import a national or “white feed,” which excludes all local content, including news and weather, into the markets served by our stations. **To be clear – FuboTV subscribers are no longer receiving KCCI’s and many other Iowa CBS-affiliated television stations local news, weather, sports, emergency information and other local programming,** but instead receiving a CBS feed without any local nexus to communities within Iowa.

While our stations remain available for free over-the-air and on multiple other traditional and virtual distribution platforms, FuboTV viewers who rely on KCCI for high-quality, local journalism and other critical information are being harmed. Unfortunately, our station is left with little choice; without a seat at the table and the right to negotiate fair terms (as we do in existing distribution arrangements), we must either accede to unfair, below-market terms that increasingly threaten our ability to continue to serve local communities or risk the untenable “white feed” scenario we are currently experiencing. In the long-term, these situations will undermine the television broadcast system that has served our local communities so well for decades by eroding the critical sources of revenue for broadcasters.

While I have several ideas on how to address the immediate concerns, I am not asking you to intervene in the current negotiations. **Instead, I ask that you urge the Federal Communications Commission Chair Jessica Rosenworcel to refresh the record on a 2014 rulemaking (MB Docket No. 14-261),** which considered how the FCC should treat these virtual MVPDs but was never acted upon or closed out by the Commission. In the intervening eight years, there has been tremendous change in media ecosystem, particularly, the local television marketplace, and the FCC should explore and understand how those changes have negatively impacted its stated pillars of localism, diversity in media voices, and news, weather, and emergency alerts that are so critical to the public interest. I trust you agree.

Thank you for your support of local broadcasters, the local news ecosystem, and our local economy.

Warm regards,

Brian Sather
President and General Manager



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