

135 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1501
(202) 224-3744
www.grassley.senate.gov

721 FEDERAL BUILDING
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(515) 288-1145

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2146 27TH AVENUE
SUITE 550
COUNCIL BLUFFS, IA 51501-6985
(712) 322-7103

United States Senate

CHARLES E. GRASSLEY
PRESIDENT PRO TEMPORE EMERITUS

WASHINGTON, DC 20510-1501
May 5, 2022

328

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

Dear Chairwoman Rosenworcel:

Attached please find a copy of a letter I received from local television stations associated with the Television Operators Caucus regarding their request 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 purposes of Section 325 of the Communications Act. 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 states 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. I ask that these concerns be given all due consideration.

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 Committee Assignments:
The Honorable Nathan Simington

RANKING MEMBER,
JUDICIARY

AGRICULTURE
BUDGET
FINANCE

Co-CHAIRMAN,
CAUCUS ON
INTERNATIONAL NARCOTICS CONTROL

April 21, 2022

Hon. Charles E. Grassley
135 Hart Senate Office Building
Washington, DC 20510

Dear Senator Grassley:

The undersigned Iowa television stations associated with the Television Operators Caucus (“TOC”) write to ask your assistance in persuading both the Democrat and Republican members of the Federal Communications Commission (“FCC” or “Commission”) to take action in a pending rulemaking proceeding that is of critical importance to the future of local television broadcasting and their ability to provide news and information to their communities.

Local television stations remain Americans’ most trusted source for accurate, factual, unbiased news and emergency information, the importance of which has been reinforced during the COVID-19 pandemic. Local broadcasters’ service to the public continues unabated, even as shifts in the video programming ecosystem have challenged local broadcasters in ways that could not have been anticipated in 2014, when the FCC opened a rulemaking proceeding to consider whether to classify online distributors of linear video or “virtual” MVPDs (“vMVPDs”) as multichannel video programming distributors (“MVPDs”) subject to the Commission’s retransmission consent rules.

Marketplace shifts over the last seven years have threatened both of local broadcasters’ key revenue streams—advertising and subscription fees—upon which stations rely to produce local news, weather reporting, emergency information, and other locally-focused programming and to operate their businesses. Big Tech companies like Google, Facebook, and Amazon now dominate the advertising marketplace and that has resulted in declines in ad revenues available to local broadcasters. These large tech platforms have dramatically changed how many Americans find and consume news content. Today, significant numbers of Americans regularly get their news from entities such as Facebook and YouTube, although much of that news content is produced by local broadcasters, whose mission—unlike that of Big Tech—is to serve their local communities. As tech platforms attract growing numbers of news consumers, advertisers unsurprisingly turn to Facebook, Google, and Amazon, rather than local broadcasters, to reach those audiences, and the Big Tech companies capture an ever-greater share of U.S. advertising revenues. Still, they do not fairly compensate the local broadcasters who produce the news content that draws viewers to their platforms, and they should.

With respect to television broadcasters’ other revenue source—subscription fees—the vMVPDs (*e.g.*, YouTube TV, DIRECTV Stream, and Hulu+ Live TV) have become highly competitive to traditional cable and satellite MVPDs. Today, some 15-20% of live television viewers subscribe to vMVPDs, and that number is expected to rise to more than 30% within the next several years. The shift has been driven in large part by the decision by vMVPDs to mimic traditional MVPDs by delivering live, linear multichannel programming to their subscribers. However, vMVPDs are not subject to the retransmission consent rules. Unlike negotiations with traditional MVPDs where local television stations negotiate directly for the carriage of their FCC-licensed signals, the national Big Four broadcast networks have asserted near-total control over carriage negotiations

Senator Charles E. Grassley

April 21, 2022

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with vMVPDs. In fact, after such an agreement is all-but finalized, the Big Four network will then present the agreement to its local affiliated stations in what generally amounts to a “take it or leave it” deal that the station must accept if it is to be carried on the vMVPD at issue.

In other words, the local stations are at the mercy of agreements that they have no say in negotiating. The December 2021 impasse between YouTube TV and ABC/Disney illustrates one of the many problems with the current framework: all ABC-affiliated stations nationwide were simultaneously removed from YouTube TV during the impasse, and those stations had no insight into the negotiations, including if or when their signals and local content would be restored to YouTube TV subscribers. Local stations must be able to negotiate directly with vMVPDs (as they do with traditional MVPDs under the retransmission consent rules) in order to negotiate fair compensation and non-economic terms reflective of the true value of their local programming, which they could then reinvest in the production and distribution of local news and other local programming.

Further, until vMVPDs are defined as MVPDs, the vMVPDs are not required to adhere to the numerous FCC rules designed to protect viewers. For example, vMVPDs are not subject to the Commission’s rules on accessibility, emergency programming, EAS, or equal employment opportunities. By expanding the definition of MVPD to include vMVPDs, the Commission would ensure that viewers who increasingly turn to online sources have the same access to closed captions, emergency alerts, and the numerous other services that viewers rely on when watching the same programming from traditional MVPDs.

Sincerely,



Thom Pritz
KCRG – TV 9 (Cedar Rapids)
KYOU – TV 15 (Ottumwa-Kirkville)
Gray Television

Sue Ramsett
Sue Ramsett
KWQC – TV 6 (Denverport – R. Island – Moline)
Gray Television

Bridget Breen

Bridget Breen
KTIV TV-4 (Sioux City)
Gray Television

Robert Totsch

Robert Totsch
WHO-TV 13 (Des Moines-Ames)
Nexstar Media Inc.

Patrick Baldwin

Patrick Baldwin
WHBF – TV 4 (Denverport – R. Island – Moline)
KGCW – TV 26 (Denverport – R. Island – Moline)
Nexstar Media Inc.

John Curry

John Curry
KCAU TV - 9 (Sioux City)
Nexstar Media Inc.

Patty Gilbert

Patty Gilbert
KLJB- TV 18 (Denverport – R. Island – Moline)
Mission Broadcasting Inc.

David Loving

David Loving
WOI – TV 5 (Des Moines-Ames)
KCWI – TV 23 (Des Moines-Ames)
Tegna

James A. Kizer

James A. Kizer
WQAD – TV 8 (Denverport – R. Island – Moline)
Tegna

Brian D. Sather

Brian D. Sather
KCCI – TV 8 (Des Moines-Ames)
Hearst Television