

**STATEMENT OF
CHAIRMAN THOMAS WHEELER**

Re: *Promoting the Availability of Diverse and Independent Sources of Video Programming*, MB Docket No. 16-41.

The Commission is committed to fostering diversity, competition, innovation, and consumer choice in the programming marketplace. To that end, we are proposing rules today that would promote the availability of diverse and independent programming to consumers by limiting practices that inhibit the introduction and expansion of such programming.

This is part of what has been a continuing, year-long process. In February, the Commission issued a Notice of Inquiry that sought comment on the state of programming diversity and how best to promote the availability to consumers of diverse and independent sources of video programming. The NOI was followed by two workshops that examined the state of the video marketplace, challenges faced by distributors of video programming, and marketplace obstacles that affect the provision of independent and diverse programming to consumers.

In the Notice of Proposed Rulemaking before us today, we propose to prohibit certain negotiating practices used by multichannel video programming distributors (MVPDs) that could impede competition, diversity, and innovation in the marketplace.

First, we would end “unconditional” Most-Favored Nation (MFN) provisions, which entitle an MVPD to receive the best terms and conditions from another distribution agreement without requiring the MVPD to assume reciprocal obligations from that other agreement. Second, we propose eliminating “unreasonable” Alternative Distribution Method (ADM) provisions, which prohibit or restrict a video programmer, in an unreasonable manner, from exhibiting its programming on non-pay-TV video distribution platforms.

These provisions limit the incentives and ability of independent programmers to experiment with innovative carriage terms and to license their content on alternative platforms. Such a reality hurts programmers who have fewer ways to grow their business. Ultimately, consumers are deprived of the benefits that otherwise would flow from enhanced competition in the video programming and distribution marketplace. As more independent programmers are dropped by MVPDs, alternative distribution becomes necessary for survival.

Commissioner Clyburn deserves special recognition for her leadership on this issue. Thank are also due to small programmers for being willing to tell their stories about how hard it is to get carriage and how hard it is to share their programming the way they want to.