



*Rocco B. Commisso*  
*Chairman and Chief Executive Officer*

July 7, 2015

The Honorable Thomas E. Wheeler  
Chairman  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Dear Chairman Wheeler:

Last year, you voiced concern because retransmission consent fees had grown 8,600 percent between 2005 and 2012. However, the Commission has done nothing to slow the drain on consumer pocketbooks. Indeed, while you have been Chairman, already bloated annual retrans costs have doubled, swelling by another \$3 billion a year – a larger increase than in any similar period since retransmission consent was created in 1992.

Other statistics confirm the Commission's dismal record when it comes to protecting the interests of the 100 million American households relying on MVPDs for their television service:

- PayTV costs are significantly higher in the U.S. than anywhere else in the world largely because the average monthly wholesale programming costs paid by most MVPDs have grown to over \$45 per subscriber. To put these wholesale programming costs in their proper perspective, \$45 is roughly the monthly retail price ISPs charge for their flagship broadband product.
- Retrans fees are the fastest growing component of programming costs, with the price per station essentially doubling every 2 to 3 years.
- At a recent industry conference, broadcasters set a target for monthly retrans fees of \$6 per subscriber for each channel – meaning that the monthly wholesale cost for the “big four” network affiliates alone will be \$24 per subscriber and a stunning \$29 billion a year for MVPD customers collectively versus about \$6 billion today.
- Broadcasters also made clear that blackouts will continue as the primary tool for reaching their goal. Since 2010, there have been over 400 blackouts, which usually end with the MVPD accepting an extortionate rate increase that then compounds forever and is ultimately paid by consumers.

If programming costs, led by retransmission consent fees, remain on this trajectory, all but the largest cable companies will be forced to make one of three highly undesirable choices:

- Cease carrying broadcast stations that elect retransmission consent.
- Get out of the video business altogether, which will necessarily require broadband customers to bear a larger share of network costs.
- Raise the price of retail PayTV service to a level that is unaffordable for tens of millions of consumers.

Whichever path MVPDs are ultimately forced to take, consumers will suffer the consequences. **These choices result in a lose-lose-lose outcome for the American public.**

I am completely mystified as to why the Commission would allow a journey down any of these paths to continue. I recently asked to meet with you during a blackout imposed by a broadcaster, only to have your staff tell me that your policy is to refrain from meeting with the parties to an ongoing retrans dispute. To my mind, that is a singularly misguided policy because you are refusing to get involved at the very time when consumers most need your help.

What makes it even worse is that the Commission also hasn't done anything to protect consumers outside of the context of a specific dispute. Instead, the Commission pursues a strategy of malign neglect, giving the impression that it is concerned even as it scrupulously avoids taking any meaningful action. For example:

- The Commission opened a rulemaking on retransmission consent reform in 2010 but, five years later, that docket remains moribund.
- A specific proposal to address programming volume discounts has been pending since 2012.
- A rulemaking to revise or repeal the network non-duplication rules has been sitting without action for over a year.
- After speaking with you last year, I had my lawyers compile several proposals for fixing the programming marketplace into a petition for rulemaking – a petition that, like all the others where the subject matter is video programming, is still languishing.

A refusal to become involved in specific disputes combined with an unwillingness to adopt corrective regulations add up to a do-nothing policy.

By contrast, where it has the will to act, the FCC can move rapidly and decisively. After the first Open Internet rules were struck down, the Commission, instead of abandoning the cause, quickly took a different tack by imposing a Title II regulatory regime. Interestingly, the Commission found a couple of ambiguous instances of possible blocking or throttling sufficient to justify subjecting ISPs to burdensome new regulations. Yet, the FCC seemingly can't be bothered to deal with the hundreds of times broadcasters have blocked millions of Americans from viewing broadcast TV through their preferred providers and used their monopolistic market power to coerce rate increases that are without precedent in any other American industry.

You have defended intervention in the broadband market by saying that a "referee with a yardstick" is needed to ensure "just and reasonable" practices. But even though far more "unjust and unreasonable" behavior regularly occurs in retrans negotiations and the financial harm to American consumers is much more meaningful, the FCC has chosen to sit on the sidelines rather than act as umpire. Your inaction only serves to embolden and empower broadcasters in their abuses of market power.

**The FCC, in short, has ignored Congress' unambiguously expressed intent to ensure that retransmission consent does not lead to blackouts or significantly increased costs to consumers.**

Although this sad history indicates that our gesture will be futile, we are today presenting the Commission with yet another opportunity to help ordinary Americans. Specifically, Mediacom is filing a petition asking the FCC to adopt rules preventing a local broadcast station from imposing a blackout unless its signal is available for free over-the-air or via Internet streaming to 90% of the homes in the relevant market.

Broadcasters have been gifted with hundreds of billions of dollars' worth of publicly-owned spectrum and given governmentally-protected monopolies. In return, they are supposed to provide local citizens with free over-the-air television service, but the reality is that millions of Americans cannot receive a quality off-air signal. Our new petition does nothing more than ask the FCC to ensure that broadcasters keep their part of the bargain and further the congressional goal of promoting universal availability of free broadcast television.

We encourage the Commission to expeditiously act on the petition we are filing today, as well as the petition we submitted last year regarding forced bundling and programming costs generally. In the interim, to ease the ever-worsening financial pain being suffered by 100 million households across the country, we strongly urge the Commission to take the following steps, all of which our lawyers tell us could be immediately implemented:

- Eliminate network exclusivity.
- Require a cost-based justification for discriminatory retrans prices and terms, and mandate rate transparency so that distributors and consumers alike can make more informed decisions.
- Acknowledge that the voluminous records in pending retrans-related proceedings demonstrate that changes are needed and that the Commission has the requisite authority.
- Start the required good faith rule review without further delay and commit to propose within 120 days specific rule changes that will make a meaningful difference.
- Use your “bully pulpit” to urge both broadcasters and MVPDs to accept a moratorium on broadcast blackouts and a 10% ceiling on price increases for renewals, pending the outcome of the good faith negotiation rulemaking proceeding. The Commission has taken a similar approach in other situations – a recent example is your letter last year to the CEO of Time Warner Cable regarding a carriage dispute preventing consumers in Los Angeles from watching televised Dodgers games.

My entire business career has revolved around a strong sense of duty to my customers, my employees and the others whose lives and economic interests are affected by my decisions and actions. My own policy on meetings is to keep an open door for discussion with anyone at any time about matters that may impact the well-being of the constituencies to whom I am responsible. Therefore, I stand ready, as I always have, to meet with you to exchange ideas on how to stop the ongoing retransmission consent disaster from doing further damage to the American public, whose taxes fund the Commission’s budget and, more importantly, whose interests you are sworn to uphold.

Sincerely,

A handwritten signature in blue ink, appearing to be "John P. C.", written over a large, horizontal, oval-shaped scribble.

cc: FCC Commissioners  
Senate Commerce Committee  
Senate Judiciary Committee  
House Energy & Commerce Committee  
House Judiciary Committee