

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Electronic Delivery of MVPD Communications)	MB Docket No. 17-317
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105
)	

REPLY COMMENTS OF NTCA–THE RURAL BROADBAND ASSOCIATION

I. INTRODUCTION

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments in response to comments filed in the Notice of Proposed Rulemaking in the above-captioned proceeding.² Consistent with its prior-filed comments in this proceeding, NTCA supports the Commission’s proposal to reduce burdens on MVPD providers by allowing them to send annual Part 76 notices to subscribers via email instead of by regular mail.³ However, NTCA strongly disagrees with broadcasters’ suggestion that MVPDs should bear the burden of

¹ NTCA represents nearly 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All of NTCA’s service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers. Approximately 75 percent serve as multichannel video programming distributors (“MVPDs”) using a variety of technologies in sparsely populated, high-cost rural markets.

² *Electronic Delivery of MVPD Communications*, MB Docket No. 17-317, Notice of Proposed Rulemaking, FCC 17-317 (rel. Dec. 14, 2017) (“Notice”).

³ *See* Comments of NTCA, MB Docket No. 17-317 (filed Feb. 15, 2018).

searching broadcasters' websites to determine whether the broadcasters are electing must carry or retransmission of their programming on the MVPD's system.⁴

II. BROADCASTERS' ATTEMPT TO SHIFT THE BURDEN ONTO MVPDs IS CONTRARY TO THE COMMISSION'S GOALS

The Commission's goal in this proceeding is to *eliminate* unnecessary and unduly burdensome rules on MVPD providers, not impose new ones.⁵ NAB, however, suggests in its comments that the Commission rewrite its rules to require MVPDs to search the website of every broadcaster who might conceivably elect to have its programming transmitted via the MVPD's system to determine whether each broadcaster elected must carry or retransmission.⁶ As justification for its suggestion to shift the burden onto MVPDs, NAB asserts that "broadcasters suffer from uncertainty about where to send the carriage election."⁷ Yet, the number of MVPDs does not multiply over the course of three years. To the contrary, the Commission's 2017 Video Competition Report concluded that "the total number of cable systems has been declining. As of June 8, 2016, there were 4,413 cable systems in the country. This is a drop from the 4,562 cable systems reported in the 17th Report and the 4,833 cable systems reported in the 16th Report."⁸ Given the stability, or in reality, decrease in the number of MVPDs, broadcasters should be able

⁴ See Comments of NAB, MB Docket No. 17-317 (filed Feb. 15, 2018) at p. 2. See also Joint Comments of CBS Corp. *et al*, MB Docket No. 17-317 (filed Feb. 15, 2018) at p. 9.

⁵ Notice at ¶ 1. See also Comments of ACA, MB Docket No. 17-317 (filed Feb. 15, 2018) at p. 13 (The Commission "should take care that, in providing relief for one segment of the communications industry, it does not create additional burdens for another.")

⁶ See Comments of NAB at pp. 6-7.

⁷ Comments of NAB at p. 4.

⁸ *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 16-247, ¶ 39 (rel. Jan. 17, 2017) (18th Report).

to rely largely on the addresses used for the most recent round of election notices. In the current digital age, those addresses are likely stored on broadcasters' computer networks and could easily be printed onto shipping labels.

Broadcasters' argument about the difficulty in determining the correct address for mailing election notices is also without merit.⁹ Broadcasters certainly have not had any difficulty locating MVPDs when collecting payment for retransmission rights. In fact, broadcasters receive substantial (and ever increasing) revenue from MVPDs for retransmission rights.¹⁰ The Commission recently found that the “[a]verage annual retransmission consent fees calculated on a per subscriber basis increased by about one-third” in just one year.¹¹ Given that broadcasters have successfully located MVPDs when seeking to enter into retransmission agreements, and get paid pursuant to such agreements, it is reasonable to assume broadcasters could use the same address and point of contact to notify MVPDs of their intent.

III. CONCLUSION

NTCA supports reducing administrative and economic burdens whenever possible and welcomes the Commission's thoughtful evaluation of rules and obligations that have either outlived their utility or require modification to remain relevant. However, NTCA strongly

⁹ See, e.g., Comments of NAB at pp. 4-5.

¹⁰ In 2015, for example, retransmission consent represented approximately 23% of broadcasters' total television revenue, up from 18% in 2014. See *18th Report*, ¶ 125. Over the two-year period from 2013-2015, the compound average annual increase in retransmission consent fees paid by MVPDs was 42.8%. *Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992 Statistical Report on Average Rates for Basic Service, Cable Programming Service, and Equipment*, Report on Cable Industry Prices, MM Docket No. 92-266, ¶ 41 (rel. Feb. 8, 2018).

¹¹ *Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992*, MM Docket No. 92-266, ¶ 40 (rel. Feb. 8, 2018).

disagrees with broadcasters' suggestion that the Commission should shift the burden of identifying whether broadcasters have elected must-carry or retransmission onto MVPDs. This suggestion is not only contrary to the Commission's goal in this proceeding, but also obviously inconsistent with broadcasters' reasons for proposing the change. Consequently, the Commission should not act on broadcasters' attempts to rewrite the Commission's Rules.

Respectfully submitted,



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