

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
All-In Pricing for Cable and Satellite Television) MB Docket No. 23-203
Service)

**REPLY COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments to address comments filed in response to the Notice of Proposed Rulemaking (“Notice”) released by the Federal Communications Commission (“Commission”) in the above-captioned proceeding.² While NTCA emphasized in initial comments its members’ commitment to transparency, the record underscores NTCA’s further assessment that the Notice’s well-intentioned proposal does not go far enough. More specifically, like NTCA, ACA Connects noted that the proposal is a missed opportunity to provide consumers with clear information detailing the high, and increasing, cost of programming that makes up a significant portion of consumers’ bills.

¹ NTCA–The Rural Broadband Association represents approximately 850 community-based companies and cooperatives that provide advanced communications services in rural America and more than 400 other firms that support or are themselves engaged in the provision of such services.

² *All-In Pricing for Cable and Satellite Television Service*, Notice of Proposed Rulemaking, MB Docket No. 23-203, FCC 23-52 (rel. June 20, 2023).

Commenters expressed general support for the Commission’s goal of providing consumers with “a transparent and accurate reflection of their subscription payment obligations.” The rules proposed in the Notice, however, may not enhance transparency in the manner intended, and may in fact inadvertently add to the confusion that consumers already face when looking at their cable bill.³ In particular, while the Commission proposes to require cable operators and DBS providers to list the “all-in” fee on promotional materials and subscribers’ bills that includes “any and all amounts” charged for video programming – excluding only taxes or charges unrelated to video programming – certain fees included in the cost of video programming, such as regional sports fees, franchise fees and PEG fees, can and often do vary by state or region. As DIRECTV pointed out, in order for video providers to include these varying fees in promotional materials, providers would either have to create different promotional materials for every state or region that lists the all-in fee for those areas, and somehow ensure that consumers only see the promotional material for their location, or create a nationwide all-in price that would likely result in some consumers paying higher monthly subscription fees than without the changes proposed in the Notice. Specifically, for cable providers and DBS operators to advertise a single, nationwide, all-in price, these companies would have to identify the highest regional sports fee, the highest PEG fee, the highest franchise fee, etc., and create a single fee that covers all of those, to be added to every consumer bill regardless of location.⁴

³ See Comments of NCTA – The Internet and Television Ass’n, MB Docket No. 23-203 (Jul. 31, 2023), p. 5 (“NCTA Comments”); Comments of DIRECTV, LLC, MB Docket No. 23-203 (Jul. 31, 2023), p. 13 (“DIRECTV Comments”).

⁴ DIRECTV Comments at p. 13.

Alternatives that seek to provide greater explanation would only exacerbate consumer confusion because promotional materials would have to include itemizations explaining these fees can (and do) vary based on state or region such that the all-in price might be different than the one listed.⁵ This would undermine the value of such a disclosure at best and would at worst be harmful to consumers. As NTCA similarly commented, including the franchise fee, PEG fee, and other local or regional fees on promotional materials in a single all-in price would create confusion among consumers and negate consumers' ability to compare costs among multiple providers, including streaming providers, contrary to the Commission's goal.⁶ Furthermore, Verizon commented that providing consumers with information detailing the cost of regional sports networks in subscription plans is beneficial because consumers then have information that allows them "to decide whether they want to purchase services that include these channels."⁷

ACA Connects observed that the Commission's intent in the instant proceeding is to provide consumers with "more and better information about cable service pricing to avoid confusion and to make informed purchasing decisions."⁸ This intent was reflected by other commenters as well who described concerns received by consumers regarding significant increases in their cable bills.⁹ Adopting new rules that require cable operators and DBS providers to list an "all-in" price on promotional materials and consumer bills will not solve this concern.

⁵ DIRECTV Comments at p. 13; NCTA Comments at p. 5.

⁶ Comments of NTCA, MB Docket No. 23-203 (Jul. 31, 2023), p. 6 ("NTCA Comments").

⁷ Comments of Verizon, MB Docket No. 23-203 (Jul. 31, 2023), p. 10 ("Verizon Comments").

⁸ Comments of ACA Connects, MB Docket No. 23-203 (Jul. 31, 2023), p. 7.

⁹ See Comments of The City of Oklahoma City, Oklahoma *et al.*, MB Docket No. 23-203 (Jul. 31, 2023), p. 5; Comments of The City of Seattle, MB Docket No. 23-203 (Jul. 31, 2023), p. 3 ("City of Seattle Comments").

Instead, the Commission can use this opportunity to address some of the practices that have resulted in these concerns – namely, costly and non-negotiable retransmission consent fees – and allow video service providers to provide consumers with transparent information about these fees.

As Consumer Reports observed, retransmission fees, including “Broadcast TV Fee” and “Regional Sports Fee,” which are passed on to consumers, make up the bulk of monthly rates, and have increased exponentially year after year.¹⁰ The City of Seattle likewise expressed concern over the significant increases in these fees.¹¹ Even NAB in trying to argue for imposing greater transparency requirements on video service providers ironically and inadvertently makes the case *for* the disclosure recommended by NTCA; specifically, NAB contends that neither consumers nor the Commission can know whether programming fees cited on consumer bills “correlate to any retransmission consent payments.”¹² NTCA agrees with NAB on this point, but the lesson that should be drawn is that consumers would clearly be far better served by knowing *precisely* what is in fact being paid in retransmission consent. It is for this very reason NTCA recommended in its comments that the Commission adopt a rule allowing video providers to disclose the amount paid for retransmission consent – a practice currently prohibited by nondisclosure clauses contained in “take it or leave it” retransmission consent agreements.¹³ Verizon similarly observed that providing consumers with information about the cost of

¹⁰ Comments of Consumer Reports, MB Docket No. 23-203 (Jul. 31, 2023), pp. 3, 6.

¹¹ City of Seattle Comments at p. 3.

¹² Comments of Nat’l Ass’n of Broadcasters, MB Docket No. 23-203 (Jul. 31, 2023), p. 3.

¹³ *See* NTCA Comments at p. 3.

programming in different subscription plans will provide consumers with important information that will help them decide which subscription plan best fits their needs.¹⁴

Comments filed in response to the Notice overwhelmingly show that one very real concern with video pricing is the increasing cost of video service subscriptions. The Commission can best alleviate this concern while simultaneously allowing for better price comparisons among competing video services by granting video providers the authority to identify the cost of programming as separate line items on promotional materials and consumer bills.

Respectfully submitted,



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¹⁴ Verizon Comments at p. 10.