

The Honorable Bobby Rush

Do you believe that technologies and industry models have changed or are changing dramatically enough for Congress to consider redefining or revising the term, “multichannel video programming distributor” (MVPD) in the Communications Act?

CenturyLink welcomes a comprehensive conversation about updating our nation’s video laws in order to reflect the 21st Century marketplace in which we live today. We look forward to working with Congress to overhaul the twenty-year old video statute in order to help consumers realize the benefits of today’s existing robust marketplace, one that did not exist when the law was enacted back in 1992.

As many of you know, the DC Circuit Court of Appeals heard oral arguments this week in the case of Verizon vs. FCC, which challenges the Commission’s authority under the Communications Act to promulgate “so-called” net neutrality rules.

If the DC Circuit were to vacate or to order the Commission to revise its rules substantially, how might that affect parties’ abilities to negotiate retransmission consent agreements “in good faith” and at arm’s length?

Would there be resulting business uncertainties and would those uncertainties be good or bad for consumers? Why?

We do not anticipate that the DC Circuit decision in Verizon v. FCC (regarding the Open Internet order) will have a direct impact on parties’ abilities to negotiate retransmission consent agreements. As such, we do not anticipate additional impacts on retransmission consent-related business uncertainties that could impact consumers.

Regarding another line of cases, it appears that the DC Circuit and the US Second Circuit are in some disagreement over when and whether emerging video networks can retransmit over-the-air broadcast content.

I know that the DC Circuit ruling is only a few days old and you may not have fully reviewed it, but which of the courts’ interpretations of federal communications and copyright law is more defensible?

If one circuit court’s application of the law and legal reasoning is more compelling or defensible than the other circuit court’s ruling, please explain why.

CenturyLink has not participated in the DC Circuit, Second Circuit or other proceedings regarding whether emerging video networks can retransmit over-the-air broadcast content, and has not taken a position on the merits of the courts’ interpretations of copyright laws.

Mr. Munson pointed out in his testimony that added regulations on broadcasters “stem from what some have characterized as a ‘social contract’ between the government and the broadcasting industry: broadcasters use licensed spectrum to serve the public interest and offer their service free to American consumers.”

Many of these broadcast TV consumers and watchers are minorities. In the 2013 Ownership Survey and Trend Report, it was cited that 22 percent of all African-American households and 25 percent of Hispanic households are broadcast only homes. Additionally, minorities comprise 41 percent. Notwithstanding this fact, minority and female ownership of television stations and cable systems has shrunk dramatically over the years.

Do any of you challenge or take issue with the proposition that minority TV broadcast and cable system owners can be just as if not more responsive to the needs of their minority viewers and audiences?

Other than the reinstatement of the minority tax certificate, which NAB has supported, what measures can Congress take so that more programming and news meeting the critical needs of minority viewers and consumers gets carried over the public airwaves, using public rights-of-way?

CenturyLink strongly supports program diversity and is proud of the breadth and collection of diverse offerings that it makes available to its consumers. We recognize the changing demographics of the country and thus distinguish ourselves in the video marketplace through a diverse selection of programming intended to meet the needs of all viewers. As we begin our participation in the Committee’s Communications Act update process, we look forward to working with your office and other committee members on programming diversity issues.

Mr. Munson says in his testimony that broadcasters are more regulated than any other video platform, including cable and satellite. He goes further to say that FCC public filing rules, including a requirement for local broadcast TV stations to place sensitive pricing information online should also apply to cable systems.

Assuming for argument that this requirement was made applicable to other video providers, couldn’t it lead to more good faith negotiation over retransmission consent agreements?

Greater transparency in how a publicly-licensed broadcast station determines its pricing, terms and conditions for fair and reasonable access to its programming could aid more rational and predictable retransmission consent costs for video programming distributors. This in turn could benefit consumers through greater stability of MVPD video service offerings and pricing.

However, to the extent Mr. Munson’s reference to sensitive pricing information refers to advertising rates contained in public inspection files, we do not perceive a connection to the retransmission consent negotiation process.