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ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
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December 20, 2013

Mr. R. Stanton Dodge
Executive Vice President and General Counsel
DISH Network LLC
1110 Vermont N.W., Suite 750
Washington, D.C. 20005

Dear Mr. Dodge:

Thank you for appearing before the Subcommittee on Communications and Technology on Wednesday, September 11, 2013, to testify at the hearing entitled "Innovation Versus Regulation in the Video Marketplace."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by the close of business on January 14, 2014. Your responses should be e-mailed to the Legislative Clerk in Word format at Charlotte.savercool@mail.house.gov and mailed to Charlotte Savercool, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Greg Walden

Greg Walden
Chairman
Subcommittee on Communications and Technology

cc: Anna Eshoo, Ranking Member, Subcommittee on Communications and Technology

Attachment

Attachment – Additional Questions for the Record

The Honorable Bobby Rush

1. 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?

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 arms-length?

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

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.

3. 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?

4. 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.

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.

5. 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?
6. Other than the reinstitution 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?

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.

7. 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?