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Greg Walden
Chairman
Subcommittee on Communications and Technology
2125 Rayburn House Office Building
Washington, D.C. 20515
Attn: Charlotte Savercool

Dear Chairman Walden:

Thank you for allowing me to appear and share my views before the Subcommittee on Communications and Technology on January 15, 2014, at the hearing entitled "#CommActUpdate: Perspectives from Former FCC Chairmen."

I have attached my answers to the two questions I received for the record. If you should require any additional information, please let me know.

Thank you again for your invitation to testify and I look forward to working with you and the Committee as it undertakes rewriting the Communications Act.

Sincerely,

Dick Wiley

Richard E. Wiley

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

Attachment

Attachment —Additional Questions for the Record

The Honorable Anna Eshoo

1. In your testimony, you emphasized the importance of having communication laws that treat functionally equivalent services in the same manner, regardless of who provides them or how they are delivered to consumers. Under the 1992 Cable Act, cable providers are prohibited from taking down broadcast signals during a Nielsen ratings "sweeps week," yet there is no such prohibition for a broadcaster that pulls their signal during a retrans dispute. Do you support updating the law to ensure parity between broadcasters and cable providers?

> I believe that the retransmission consent process is working as Congress intended in the 1992 Cable Act. As I understand it, Congress envisioned marketplace negotiations between broadcasters and cable systems (and other MVPDs) concerning the value of the broadcast signals involved. Over two decades, this process has resulted in literally thousands of agreements with relatively few (and usually very brief) service interruptions. This is because both sides have something to gain and to lose and, in that sense, have parity. However, if cable operators were able to continue carrying broadcast signals after the expiration of retransmission consent agreements, broadcasters would lose the ability to negotiate competitively. Moreover, even where a signal is not present on one MVPD, it remains available over the air and often on other systems as well. Thus, for consumers, the signal is never really lost. In all, my view is that the law does not need to be "updated" or changed.

2. I know that states are often closest to the ground and have significant experience dealing with competition and consumer protection activities. At the same time, I recognize that there is not always the jurisdictional distinctions as there were in the days of local and long distance phone calls. How should the FCC work with the states to ensure that consumers are protected in a broadband era?

> States have played and will continue to play an important role in the communications sector. State regulators are closer to conditions on the ground and can be an important source of information about the extent to which federal regulatory policies are working in the manner intended. Congress has recognized the important role that state regulators serve by establishing Joint Federal State Boards (for example, on Universal Service). These Joint Boards should continue to function, and Congress should consider whether additional Joint Boards are appropriate in the new IP world. For example, it may make sense to create a Joint Board on Broadband, which would allow state regulators to provide their federal counterparts with information about best practices on broadband adoption programs and offer solutions to the challenges of deploying broadband in high-cost areas. A Joint Board on Broadband also may serve as an important resource as the FCC considers changes to the E-rate program to ensure that schools and libraries are well equipped to meet the demands of a digital era.
>
> However, it is imperative for continued broadband innovation and investment to eliminate the overlapping regulation between the FCC and states that is premised upon an obsolete dichotomy in an IP world. Because the jurisdictional dividing line between the FCC and the states (i.e., interstate and intrastate telecommunications) will soon cease to

exist, Congress should be wary of subjecting services that are inherently interstate to local regulation. Wireless provides a useful model. Recognizing that wireless services did not fit neatly into the traditional telephone regulation scheme, Congress vested the FCC with the primary role in regulating wireless services while at the same time preserving some limited authority for states to regulate wireless service providers. With wireless services ubiquitously available throughout the United States and with more mobile devices than U.S. residents, it is hard to argue with the success of this approach.