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6 LIGHTS, CAMERA, SUBSCRIPTIONS:

7 STATE OF THE VIDEO MARKETPLACE

8 WEDNESDAY, SEPTEMBER 13, 2023

9 House of Representatives,

10 Subcommittee on Communications and Technology,

11 Committee on Energy and Commerce,

12 Washington, D.C.

13

14

15 The subcommittee met, pursuant to call, at 2:17 p.m. in
16 Room 2322, Rayburn House Office Building, Hon. Bob Latta
17 [chairman of the subcommittee] presiding.

18

19 Present: Representatives Latta, Bilirakis, Walberg,
20 Carter, Dunn, Curtis, Joyce, Weber, Allen, Balderson,
21 Fulcher, Pfluger, Harshbarger, Cammack, Obernolte, Rodgers

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22 (ex officio); Matsui, Clarke, Veasey, Soto, Eshoo, Cardenas,
23 Craig, Fletcher, Dingell, Kuster, Kelly, and Pallone (ex
24 officio).

25

26

27 Staff Present: Sarah Burke, Deputy Staff Director; Nate
28 Hodson, Staff Director; Noah Jackson, Clerk, C&T; Sean Kelly,
29 Press Secretary; Emily King, Member Services Director; Giulia
30 Leganski, Professional Staff Member, C&T; John Lin, Senior
31 Counsel, C&T; Kate O'Connor, Chief Counsel, C&T; Carla
32 Rafael, Senior Staff Assistant; Evan Viau, Professional Staff
33 Member, C&T; Hannah Anton, Minority Policy Analyst; Keegan
34 Cardman, Minority Staff Assistant; Jennifer Epperson,
35 Minority Chief Counsel, C&T; Waverly Gordon, Minority Deputy
36 Staff Director and General Counsel; Tiffany Guarascio,
37 Minority Staff Director; Dan Miller, Minority Professional
38 Staff Member; Michael Scurato, Minority FCC Detailee; Johanna
39 Thomas, Minority Counsel; C.J. Young, Minority Deputy
40 Communications Director; and Cornell Harris, Minority Intern.

41

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42 *Mr. Latta. The subcommittee will come to order, and
43 the chair recognizes himself for five minutes for an opening
44 statement.

45 And welcome to today's educational hearing on the state
46 of the video marketplace. I look forward to our hearing
47 today from our witnesses who represent a wide range of
48 viewpoints across the industry.

49 The video marketplace is rapidly changing. For over
50 half a century, Americans viewed video programming one way:
51 on a television in their homes. But the advent of Internet-
52 connected TVs and devices allowed for the launch of streaming
53 platforms to provide new choices for consumers beyond an
54 over-the-air antenna, a satellite dish, or a cable box.

55 Americans are no longer tethered to a rigid TV schedule.
56 Today viewers can choose where and when they watch TV,
57 whether it is at home, on the go, or everywhere in between.
58 This industry shift has ushered in an era of endless
59 possibilities, redefining how we entertain, educate, and
60 inform ourselves.

61 Today consumers have unprecedented access to high-
62 quality content. Statistics show Americans' preferences are

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63 changing as streaming becomes an easy and affordable choice
64 for Americans.

65 For the first time, streaming providers claimed the
66 largest portion of U.S. video viewership in July of 2022. At
67 that time, streaming viewership represented 34.8 percent of
68 TV viewership, while cable subscriptions represented 34.4
69 percent. In the same report published this month, streaming
70 shares hit a new high of 38.7 of the TV viewership, while
71 cable share was at 29.6 percent. This shows that consumers
72 continue to cut their cable subscriptions and move to
73 streaming, or, in other words, are cutting the cord.

74 Yet as this media landscape has drastically evolved, the
75 regulatory environment has largely remained the same. The
76 Cable Act, which is over 30 years old, still provides the
77 bedrock framework for TV regulations today. Burdensome
78 regulations, including media ownership restrictions,
79 retransmission consent, and other must-carry requirements,
80 are just a few of the regulations concerning cable,
81 satellite, and other -- and the broadcasters.

82 With the introduction of streaming services, we must
83 resist the temptation to impose more regulations in a

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84 competitive, innovative industry. The largely unregulated
85 streaming marketplace has allowed platforms to flourish and
86 to negotiate deals to provide Americans with unprecedented
87 access to content from local broadcasters, television shows,
88 movies, and other content.

89 Rather, we should focus on deregulating an overly
90 regulated industry instead of imposing archaic 1990s-era
91 regulations onto a new and vibrant industry. It is our role
92 in this committee to determine what is still working, where
93 we can reduce regulations, and how we can support American
94 viewing choice while ensuring local broadcast continues to
95 thrive.

96 Today's hearing is just the beginning of this
97 conversation. With the various changes in the industry, this
98 hearing provides an opportunity for Congress to learn about
99 issues with laws and regulations pertaining to multi-channel
100 video programming distributors, MVPDs, like Comcast and
101 DirecTV and virtual MVPDs, like Hulu, Live TV, Fubo TV, and
102 YouTube TV. The contrast between linear or scheduled TV and
103 non-linear, meaning on-demand content, and outdated laws and
104 regulations that may no longer make sense for today's

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105 marketplace.

106 I do look forward to our discussion today, and thank our
107 witnesses for their willingness to be here as representatives
108 of their industries.

109 [The prepared statement of Mr. Latta follows:]

110

111 *****COMMITTEE INSERT*****

112

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113 *Mr. Latta. And before I recognize my colleague, the
114 ranking member of the subcommittee, the gentlelady from
115 California, from the 7th district, for her opening statement,
116 I just want to make one last statement. And I say this a lot
117 about this committee.

118 In our opinion, this is the greatest committee in
119 Congress, the Energy and Commerce Committee. And one of the
120 things I really have to always say about it is this. We look
121 over the horizon 5 to 10 years because that is where you all
122 are in a lot of cases. We can't go out there and think about
123 enacting a piece of legislation or laws in general without
124 knowing what is happening out there. So this is why it is so
125 important that we have this hearing today.

126 And with that, again, I recognize my good friend, the
127 ranking member from -- who -- the gentlelady from
128 California's 7th district for her opening statement. Thank
129 you.

130 *Ms. Matsui. Thank you. Thank you for those words,
131 too, also, Mr. Chairman. Today's hearing comes at a critical
132 time for the video marketplace. Customer preferences and
133 business models are changing quickly. Congress needs to keep

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134 pace, and this discussion provided a needed forum for that.

135 The market we will be examining today is in the middle
136 of a profound sea change. The pandemic continues the trend
137 that was already building in the video ecosystem. Consumers
138 are steadily drifting away from traditional pay TV towards
139 video-on-demand and other over-the-top services. By some
140 estimates, 80 million households will have cut the cord by
141 2026.

142 As more families cut the cord than maintain a pay TV
143 subscription, the implications for the market will be
144 significant. Business models will need to adapt, and the
145 regulatory structures must be scrutinized to ensure they are
146 preventing consumer harms because these macro changes are
147 already being felt across the industry, especially by
148 consumers, perhaps no more acutely than television blackouts.

149 For anyone who has experienced a television blackout,
150 they are pretty easy to understand. Consumers pay for
151 something they never get. In almost any other industry,
152 charging a customer or consumer for something that is not
153 delivered would be unthinkable. And yet it is an experience
154 that is all too common. You have friends over to watch the

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155 game, the big game, or your favorite show. But when you turn
156 on the TV, nothing. Despite being billed and paying in full,
157 nothing. No game, no show. And it is not just once. These
158 blackouts can go for weeks. Not only that, but they are
159 becoming more and more common.

160 It is estimated that there have been more than 1,000
161 station blackouts since 2010. In 2019 alone, they have had -
162 - they have already had 230. These blackouts are unfair, and
163 they have to stop. As this committee moves forward with our
164 look into the video marketplace, I am going to be laser
165 focused on stopping these blackouts.

166 But that is not the only issue we need to examine within
167 the video ecosystem. As Congress moves forward with hearings
168 like this, the FCC is also engaged on these important issues.
169 The FCC is taking steps to crack down on bogus junk fees that
170 so often cause sticker shock and inflated bills. The
171 proceeding would require video distributors to provide the
172 all-in price clearly and prominently in their ads and on
173 subscriber bills. Consumers deserve accurate information to
174 make informed decisions, and I hope the FCC can strike the
175 right balance.

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176 And it would be an incomplete discussion if we didn't
177 explore the incredibly challenging headwinds our valued local
178 news partners are facing. From election information to
179 public safety alerts to local high school sports, Americans
180 rely on these trusted sources of information. I have seen it
181 firsthand, but I am excited that Mr. Curtis LeGeyt will be
182 describing a perfect example of local news in KCRA in
183 Sacramento.

184 KCRA's award-winning journalism is an indispensable part
185 of our region's civic fabric, and during wildfires they
186 provide a lifeline to every resident who needs it. As we
187 move forward with these discussions, it is the needs of the
188 locals that I will be fighting for because communities like
189 Sacramento all over the country depend on it.

190 With that, I appreciate today's witnesses for appearing
191 before us, and I look forward to this important discussion.

192 [The prepared statement of Ms. Matsui follows:]

193

194 *****COMMITTEE INSERT*****

195

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196 *Ms. Matsui. I yield back the balance of my time.

197 *Mr. Latta. Thank you. The gentlelady yields back the
198 balance of her time. The chair now recognizes the gentlelady
199 from Washington, the chair of the full committee, for five
200 minutes for her opening statement.

201 *The Chair. Good afternoon. Thank you. Thank you,
202 Chairman Latta and all our witnesses.

203 Today's video marketplace is evolving rapidly.
204 Americans have more choices than ever on how, when, and where
205 they watch content, as well as what content they watch. We
206 have seen a profound shift in people's viewing habits,
207 especially as streaming services have become more available
208 and reliable.

209 For decades, the only options available were
210 over-the-air television and cable services, where people
211 could watch live TV at a scheduled time on television. Now,
212 streaming platforms allow people to watch whatever they want,
213 whenever they want, whether that is on a TV or on the go,
214 using a phone, computer, tablet, or any device that has
215 access to the Internet. Streaming platforms have reshaped
216 our entertainment habits, made our lives more convenient, and

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217 diversified the content available.

218 This transformation also introduced complex challenges
219 for the entire media industry. Cable and satellite operators
220 continue to lose a record number of subscribers. Streaming
221 platforms spend billions of dollars on content in a market
222 that is flooded with competition. People have experienced
223 major blackouts on cable networks across the country due to a
224 failure by providers and broadcasters to reach carriage
225 agreements, including in my district, where just this past
226 weekend constituents were prevented from watching local news
227 and the Seahawks. They lost.

228 [Laughter.]

229 *The Chair. And Hollywood has shut down as the actors
230 and writers strike carries on.

231 In 1992 Congress passed the Cable Act, a landmark piece
232 of legislation that injected much-needed competition and
233 consumer protection to a monopolistic cable and satellite TV
234 industry. As discussed, the industry has changed drastically
235 since then.

236 The Internet has created unlimited possibility for
237 innovation, which we have seen with the advent of streaming

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238 services. This shift has created a new environment that the
239 Cable Act was never designed for. After nearly 30 years, it
240 is time for us to reexamine the law, to once again ensure
241 that innovation and competition are encouraged.

242 Now, some have called to simply expand the law to cover
243 the streaming industry, rather than reevaluate it and bring
244 it into the 21st century. This approach would be
245 irresponsible, and could potentially kill the flourishing
246 streaming industry, locking both online platforms and
247 traditional providers into outdated laws.

248 Under the Obama Administration, the Federal
249 Communications Commission began a process to expand these
250 legacy rules relating to multichannel video programing
251 distributors, or MVPDs, to new, Internet-based streaming
252 providers. Thankfully, this effort was never finalized.
253 Recently, however, there has been calls for the FCC to reopen
254 that proceeding, and this is an effort I do not support,
255 which is why earlier this year Chairman Latta and I sent a
256 letter to FCC Chairwoman Rosenworcel cautioning the FCC from
257 refreshing the record. We reminded the chairwoman that the
258 FCC does not have the legal authority to regulate streaming

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259 services.

260 The FCC and Congress should not be in the business of
261 applying decade-old laws to modern, innovative technology,
262 especially when much of that technology and the services it
263 provides didn't even exist at the time that the law was
264 written.

265 Congress also must be mindful of the crucial role that
266 local broadcast plays in the media industry. Local
267 broadcasters have long been pillars of our communities,
268 providing vital information for millions of Americans and a
269 platform for a diversity of voices to be heard. And rural
270 communities in particular rely on services provided by local
271 broadcasting, especially when they only have limited or no
272 access to high-speed broadband and streaming services.

273 Local news fosters a sense of local identity, connecting
274 people through regional programming that reflects the unique
275 perspectives and traditions of their communities. During
276 emergencies local broadcasters provide important safety
277 information to public and first responders. It is closer to
278 the people telling the stories and sharing the perspectives
279 that the national news doesn't cover and sometimes ignores.

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280 As the industry changes, we must be sure that the local
281 broadcast is preserved.

282 Today's hearing will provide expert insight into the
283 evolution of this market, as well as steps Congress can take
284 to ensure outdated regulations do not hinder innovation and
285 competition. I look forward to the discussion today.

286 [The prepared statement of The Chair follows:]

287

288 *****COMMITTEE INSERT*****

289

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290 *The Chair. Mr. Chairman, I yield back.

291 *Mr. Latta. Thank you very much. The gentlelady yields
292 back and the chair now recognizes for five minutes the
293 gentleman from New Jersey, the ranking member of the full
294 committee.

295 *Mr. Pallone. Thank you, Mr. Chairman.

296 We are here today to discuss the ever-changing video
297 marketplace, a marketplace that has been experiencing an
298 ongoing transformation in recent years. These changes are
299 dramatically impacting consumers' options and the prices they
300 pay to view the programs and content that they want.

301 It is hard to believe, but there was a time when a
302 discussion of video programing brought to mind a family
303 gathered around a boxy television with rabbit ears that on a
304 good day could get all three major television networks. But
305 today there are a lot more options, and we can now scroll
306 through endless channels we get through either a cable or
307 satellite service or through subscription service's access
308 through the Internet. And while the delivery mechanisms
309 differ, at its heart it is really all the same. It is us
310 watching a video screen consuming news, sports, art, and

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311 entertainment.

312 And judging by recent surveys, we do a lot of it. In
313 2022 American adults spent more than 6 hours a day watching
314 video on over-the-air broadcasting cable, satellite TV,
315 streaming services, and social media sites.

316 In some ways, there has never been a better time to be a
317 consumer of this video content. Numerous options mean
318 competition, lower prices, and more awareness of what
319 consumers want. Distributors are buying unprecedented
320 amounts of content, generating more opportunities for content
321 creators who are women and people of color, and creating more
322 diversity and choice for consumers. And new competitive
323 streaming services have offered consumers the promise of
324 saving money by only paying for the content that they want.

325 But while the industry remains robust and consumers have
326 largely benefited, new players in the market, disruptive
327 technology, changing business models, and outpaced statutes
328 have dramatically altered revenue streams. And all of these
329 forces have created a precarious moment in which it isn't
330 entirely clear what the future may hold.

331 Unfortunately, we are already beginning to see market

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332 consolidation, rising prices, junk fees, and disappearing
333 content, and consumers are beginning to experience
334 subscription fatigue as they spend upwards of \$100 a month on
335 multiple services to get access to all of the content they
336 want to watch.

337 Television blackouts are rampant and content creators
338 that are finally getting a chance to tell their stories are
339 finding that new gatekeepers and take-it-or-leave-it deals
340 are impacting their ability to make a living.

341 Moreover, we can't forget that the backbone of all of
342 this is broadband Internet access. Unlike our old cable
343 bundles or free, over-the-air broadcasting, access to these
344 new online video services requires a separate subscription to
345 high-quality, reliable broadband. Unfortunately, the digital
346 divide persists, and whether due to affordability or
347 availability, a broadband subscription often remains out of
348 reach for many families.

349 And that is why programs that Democrats have championed,
350 like the Affordable Connectivity Program and the Broadband
351 Equity Access and Deployment Program, are so important. They
352 offer so much promise to truly unlock these innovative video

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353 services for people across the country who simply do not have
354 access to high-speed Internet either because they could not
355 afford it or simply it was not available where they live.
356 And we should all keep in mind that -- keep this in mind as
357 we discuss the positive impact these programs are making on
358 American families around the nation.

359 We are also challenged in the shifting video marketplace
360 by a changing information landscape. Americans still, by and
361 large, depend on broadcasters and cable for trusted local
362 news, safe children's programming, live events, and emergency
363 information. And newer online streaming services still rely
364 on traditional channels to offer this important content to
365 consumers.

366 What is more, as consumers increasingly turn to social
367 media and online platforms that host user-generated content,
368 we have seen a dramatic uptick in misinformation,
369 disinformation, and content harmful to children. And this
370 troubling content blurs the lines between fact and fiction,
371 erodes consumer trust, and jeopardizes our democracy, in my
372 opinion.

373 So the evolving video marketplace is complex. And

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374 amidst this uncertainty it is more important than ever to put
375 consumers first and make sure they are not being ripped off
376 by these companies because of high prices and junk fees.

377 My focus will remain on consumers and the timeless
378 principles of competition, localism, and diversity in the
379 Communications Act. And while our statutes and regulations
380 have clearly not kept pace as the media landscape has
381 changed, the solution is not to throw it all out, give up any
382 oversight, and abandon consumers. Instead, we must remember
383 why these statutes and regulations were enacted in the first
384 place, and only then can we decide how best to carry these
385 values forward on behalf of American consumers.

386 So I look forward to the discussion today. I think it
387 is important hearing.

388

389

390 [The prepared statement of Mr. Pallone follows:]

391

392 *****COMMITTEE INSERT*****

393

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394 *Mr. Pallone. And with that, I yield back the balance
395 of my time, Mr. Chairman.

396 *Mr. Latta. Well, thank you very much. The gentleman
397 yields back. And at this time, I would like to introduce our
398 witnesses for today: Mr. Curtis LeGeyt, the president and
399 chief executive officer of the National Association of
400 Broadcasters; Mr. Grant Spellmeyer, president and chief
401 executive officer, ACA Connects-Americans Communications
402 Association; Mr. David Gandler, co-founder and chief
403 executive officer of FuboTV Inc.; and Mr. Jonathan Schwantes,
404 the senior policy counsel for Consumer Reports.

405 And I want to thank you again for all being with us.

406 I want to also take a quick -- let you all know to
407 understand the lights, and hope that it is out there on the
408 table today. But your timer light will turn yellow when you
409 have one minute remaining, and will turn red when your time
410 has expired.

411 And just a quick note of personal privilege. We do have
412 the former chair of the Energy and Commerce Committee with us
413 today, and also the former subcommittee chair of the
414 Communications and Technology. I think that is -- might be

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415 more important. But Greg Walden is with us today.

416 So, Mr. Chairman, welcome back. Mr. LeGeyt, you are

417 recognized for five minutes for your opening statement.

418

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419 STATEMENT OF CURTIS LEGEYT, PRESIDENT AND CEO, NATIONAL
420 ASSOCIATION OF BROADCASTERS; GRANT B. SPELLMEYER, PRESIDENT
421 AND CEO, AMERICA'S COMMUNICATIONS ASSOCIATION—ACA CONNECTS;
422 DAVID GANDLER, BOARD MEMBER AND CEO, FUBOTV INC.; AND
423 JONATHAN SCHWANTES, SENIOR POLICY COUNSEL AND MANAGER OF
424 SPECIAL PROJECTS, CONSUMER REPORTS

425

426 STATEMENT OF CURTIS LEGEYT

427

428 *Mr. LeGeyt. Good afternoon, Chairs Rodgers and Latta,
429 Ranking Members Pallone and Matsui, and members of the
430 subcommittee. My name is Curtis LeGeyt, and I am the
431 president and CEO of the National Association of
432 Broadcasters. I am proud to testify today on behalf of our
433 thousands of local television and radio station members who
434 serve your constituents across the country.

435 In today's media landscape, television and radio
436 broadcasters' value proposition stands alone. We are the
437 most trusted, we are the most local, we offer the most
438 in-demand sports and entertainment programming, and we are
439 freely available to any viewer and listener who wants to

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440 access our stations over the air. For those reasons we
441 remain the most popular. More than 181 million adults watch
442 broadcast TV each month, and more than 227 million listeners
443 tune into broadcast radio each week.

444 Most importantly, we are lifelines in times of
445 emergency, when Internet and cell networks fail. Consider
446 the wildfires that recently ravaged the island of Maui,
447 destroying homes, lives, and businesses, and forcing
448 thousands of people to evacuate. For days there was no
449 power, no water, and no Internet service. Fiber lines and
450 cell towers burned to the ground. But broadcasting remained
451 one of the few dependable sources of communication, providing
452 round-the-clock updates on the fires, emergency supplies, and
453 shelter that kept people safe.

454 And tragically, this is not unique. Whether it is
455 tornadoes in Ohio or flooding in California, broadcasters are
456 there. Yet broadcasters' investment in this service, all
457 freely available to the public, does not exist in a vacuum.
458 We compete in a fierce media landscape that has been
459 dramatically reshaped by changes in technology and an
460 avalanche of content options.

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461 Today we compete for audience, advertising dollars, and
462 content rights with cable, satellite, podcasts, digital
463 platforms, and, most significantly, Big Tech. Yet despite
464 these industry changes, broadcasters remain uniquely subject
465 to rules governing our scale and scope from a bygone era.
466 Unlike TV broadcasters, no rule restricts YouTube or TikTok's
467 audience reach to 39 percent of U.S. households. Unlike
468 radio broadcasters, no rule limits Sirius XM to offering only
469 five channels in one local market. And our competitors have
470 no obligations or incentive to provide the local news,
471 weather, sports, public affairs, or emergency information
472 that our audiences rely on.

473 We offer a public service that our competitors do not
474 replicate. Yet we do all this while competing with one arm
475 tied behind our backs. To that end, more must be done to
476 ensure fair competition and continued consumer access to our
477 essential service. This committee should urge the FCC to
478 immediately take four actions.

479 First, the FCC should complete its 2018 Quadrennial
480 Review and modernize its broadcast ownership rules to account
481 for the rise and increasing dominance of digital media.

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482 Second, the FCC should refresh the record in its virtual
483 MVPD proceeding to ensure it reflects the impact of streaming
484 on viewer access to local stations.

485 Third, the FCC should create a more transparent, fair,
486 and predictable process to review broadcast transactions.

487 And finally, the FCC should continue supporting the
488 rollout of NextGen TV. These are four actions the FCC can
489 take today.

490 Additionally, this committee should focus its
491 legislative efforts on two bills: the AM Radio for Every
492 Vehicle Act, which will ensure continued access to AM radio
493 as a safety standard in automobiles; and legislation to
494 reinstate the Diversity Tax Certificate program, which will
495 help broadcasters better reflect the diversity of the
496 communities we serve.

497 In conclusion, America's broadcasters are extremely
498 proud of our service to your constituents. But importantly,
499 we must acknowledge that our role is not accidental. It is a
500 shared success between our industry and a legal framework
501 that was created and refined by generations of this
502 committee.

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503 While some on the witness panel may criticize elements
504 of it, our blend of local and national programing that is
505 uniquely tailored to every community across the country is
506 one of the true success stories in a century of
507 telecommunications law. As a result, our free and local
508 broadcast system remains the envy of the world.

509 Thank you again for the opportunity to appear before you
510 today. I look forward to your questions.

511 [The prepared statement of Mr. LeGeyt follows:]

512

513 *****COMMITTEE INSERT*****

514

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515 *Mr. Latta. Well, thank you for your testimony.

516 And Mr. Spellmeyer, you are recognized for five minutes.

517

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518 STATEMENT OF GRANT SPELLMEYER

519

520 *Mr. Spellmeyer. Thank you for the opportunity to
521 testify today on these very timely issues.

522 Aside from Congressman Pallone, no member of this
523 committee was in Congress 31 years ago when it enacted the
524 1992 Cable Act. Looking back, no one could have accurately
525 predicted the tremendous changes that would follow from that
526 law. The law resulted in content providers gaining
527 disproportionate leverage over smaller cable providers and
528 their subscribers.

529 ACA Connects was formed in 1993, after passage, to give
530 small and rural cable operators a seat at the table in
531 Washington. Since then, ACA has been engaged on every major
532 legislative and regulatory decision affecting the video
533 marketplace. We appreciate the seat at this table today.
534 Fast forward to 2023. We have over 500 members who together
535 serve all 50 states.

536 Thirty years ago, cable television was my members' core
537 business. By 2019 that was no longer true. The marketplace
538 had evolved so dramatically that we changed our name from the

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539 American Cable Association to America's Communications
540 Association, ACA Connects, to emphasize our members' growing
541 focus on broadband delivery platforms.

542 The shift away from video programing is fundamentally
543 driven by the ever-rising cost of programing, especially
544 sports content. You need look no further than exhibits A and
545 B to my testimony, written testimony, to understand the
546 history of the price increases that we have experienced.

547 But don't let me leave you with the impression that
548 there is no good news, however. Consumers have access to
549 tons of content. ACA Connects members are delivering that
550 content to their consumers over world-class broadband
551 infrastructure that empowers consumer choice. If we as a
552 country are to collectively seize this moment for the benefit
553 of consumers, we must ensure that the rules operate fairly
554 and rationally without anyone having the ability to exert
555 undue leverage. Otherwise, we face a reckoning.

556 Looking forward, there are three main issues that are
557 worth your attention here in Congress today.

558 First, just as we have seen the disruption to local
559 newspapers and other media driven by changing habits and

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560 technologies, the video business has changed forever. I can
561 tell you that some of my members, both large and small, have
562 exited the video business already. I can tell you that all
563 of them are seriously considering the possibility of doing
564 that in the future.

565 Since cable customers have largely funded the content
566 explosion, the fallout of this coming change is going to be
567 profound for everyone, including providers, programmers, and
568 local broadcasters. How Congress chooses to impact the pace
569 of change is of paramount importance to everyone.

570 Second, a constant theme is that market size and market
571 power casts a massive influence over innovation and pricing.
572 We encourage you to look at existing programs, rules, and
573 laws with an eye towards trying to make sure that no player
574 can assert undue leverage resulting in harm to competition or
575 consumers.

576 The same is true for many telecom policies under
577 consideration before this committee. Take net neutrality,
578 for example. All the evidence points to a healthy and
579 functioning dynamic marketplace, where broadband providers
580 make it possible for their subscribers to choose content

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581 sources.

582 I cannot leave this table today without urging you to
583 consider the risks of revisiting title 2 rate regulation. If
584 anything, just as we have seen in the video marketplace,
585 policymakers need to consider the impact on smaller providers
586 who lack leverage over online giants. Failure to do so could
587 destabilize the ecosystem, especially in the rural markets we
588 serve.

589 Third and finally, while the transition to Internet-
590 delivered services and content is well underway, many
591 consumers today are still impacted every day by factors such
592 as the rates, terms, and conditions for linear programming.
593 The antiquated retransmission consent framework continues to
594 leave customers suffering under a regime of inflated prices,
595 blackouts, and without the ability to choose content packages
596 that best suit their needs. We must fix it and avoid future
597 mistakes.

598 We hope that you will keep these dynamics in mind, and
599 the lessons of history in mind as we tackle these issues
600 going forward. Thank you.

601 [The prepared statement of Mr. Spellmeyer follows:]

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602

603 *****COMMITTEE INSERT*****

604

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

605 *Mr. Latta. Well, thank you.

606 Mr. Gandler, you are recognized for five minutes.

607

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608 STATEMENT OF DAVID GANDLER

609

610 *Mr. Gandler. Good afternoon, Chairman Latta, Ranking
611 Member Matsui, and distinguished members of the subcommittee.
612 Thank you for inviting me to testify before you today.

613 My name is David Gandler, and I am the co-founder and
614 chief executive officer of Fubo. I have been in the media
615 industry for nearly 25 years in various roles, including at
616 local broadcast and cable TV companies in both the general
617 and Hispanic markets. I co-founded Fubo in 2015 for 2
618 reasons: I wanted to help consumers access content that was
619 difficult for them to find; and two, I believed that the
620 media landscape was transitioning to streaming. And so it
621 did.

622 Today consumers have freedom when deciding how to access
623 content. With the rise of streaming, the video content
624 marketplace has become increasingly diverse and competitive.
625 From traditional cable to satellite to a variety of streaming
626 services, accessing news, entertainment, and sports content
627 is easier than ever, and prices are very competitive. Cable,
628 fiber, and satellite television companies like Comcast and

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629 DirecTV continue to offer content to consumers.

630 However, with streaming services, consumers can access
631 content on their computers, televisions, and mobile devices.
632 These streaming services provide content in various formats.
633 Services like Amazon Prime Video, Disney+, or Netflix allow
634 consumers to stream selections from a library of content.
635 These services typically offer content on demand, pre-
636 recorded video for users to watch at their leisure with
637 limited or no live content.

638 Services like Fubo, YouTube TV, and Hulu Plus Live TV
639 are similar to traditional cable, satellite, and fiber
640 companies in the content that they offer. But they are very
641 different in every other aspect. These services aggregate
642 hundreds of broadcast television stations, but deliver them
643 to consumers over the Internet. They offer both live and
644 video on demand content. Notably, the live TV content
645 streamed from such providers includes access to almost every
646 local station in America.

647 For example, Fubo subscribers can stream approximately
648 99 percent of local stations across the country. Further,
649 live TV streamers like Fubo can be a cheaper consumer

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650 alternative. We do not require and therefore do not charge
651 consumers for cable or satellite boxes. Also, consumers do
652 not have to agree to long-term contracts as they may be
653 required to do with cable. All of these benefits for
654 consumers, including the broad optionality and accessibility
655 of local content, are possible because companies like Fubo do
656 not face regulation that undermine our ability to prioritize
657 consumer preferences and to innovate.

658 Applying decades-old regulations to streaming platforms
659 is the epitome of a solution in search of a problem.
660 Unfortunately, large-station groups are pushing the FCC for
661 rule changes that would ultimately increase costs for
662 consumers. These groups are pushing to force streaming
663 platforms to negotiate with them directly for content that
664 they do not own. They seek to revive a long dormant
665 proceeding that provoked an overwhelmingly negative response
666 during a public consultation. Commenters pointed to the
667 potential harm to viewers, content creators, and local news
668 providers.

669 The protracted Nexstar and DirecTV dispute is a recent
670 example. Nexstar has pulled its content from DirecTV for

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671 several months now. Blackouts such as this caused massive
672 disruption for consumers who are not able to watch the must-
673 have programming, including pro football games like this past
674 weekend.

675 Consumers undoubtedly benefit from our subscription
676 model. Our subscribers receive a Fubo channel plan that is
677 right for them with applicable local news, weather, and
678 sports content, as well as national networks. However, it
679 would simply not be possible for us to provide this content
680 to consumers if regulations required that we negotiate with
681 each local station. The time and people necessary to
682 complete such negotiations would allow us only to focus on
683 major media markets, leaving many local communities behind.
684 This would be a profoundly detrimental change to the current
685 system, where virtually anyone in the United States with
686 broadband access can sign up for Fubo and access their local
687 content.

688 Also, it is highly unlikely that Fubo and other
689 streaming companies would be treated fairly in any such
690 negotiations, and ultimately, again, the consumer will be
691 adversely impacted. We know consumers want the technological

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692 innovation, content selection, and competition created by the
693 current system because we see that in the rate of consumer --
694 customers canceling their traditional pay-TV services,
695 otherwise known as cord cutting, has continued to accelerate
696 in the United States.

697 Thank you for the opportunity to appear at this hearing
698 today. And I am, of course, happy to answer any questions.
699 Thank you.

700 [The prepared statement of Mr. Gandler follows:]

701

702 *****COMMITTEE INSERT*****

703

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704 *Mr. Latta. And thank you very much for your testimony.

705 Mr. Schwantes, you are recognized for five minutes for

706 your opening statement.

707

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708 STATEMENT OF JONATHAN SCHWANTES

709

710 *Mr. Schwantes. Thank you. Good afternoon, Chairman
711 Latta, Ranking Member Matsui, and members of the
712 subcommittee. And thank you for inviting me to testify on
713 the current state of the video marketplace. My name is John
714 Schwantes, and I am a senior policy counsel at Consumer
715 Reports. Today we will no doubt hear that the video
716 marketplace has been dramatically disrupted, with the pace of
717 change accelerating in just the past two or three years. On
718 this point many of us will agree.

719 Traditional cable and satellite TV companies have lost
720 millions of customers, specifically more than 25 million in
721 just the past 5 years. On the other hand, streaming
722 services, a novelty a decade ago, have signed up millions of
723 subscribers. Netflix alone counts 75.5 million U.S.
724 subscribers. And today some streaming services provide live
725 television, equivalent to what a traditional cable company
726 offers.

727 Importantly, free, over-the-air local broadcasting still
728 exists, but many younger consumers have no memory that

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729 television once meant receiving 3 or 4 local broadcast
730 channels with an antenna just 40 or 50 years ago. Speaking
731 for myself, I do remember.

732 [Laughter.]

733 *Mr. Schwantes. To put this in perspective, last year,
734 in July, for the very first time, as Chairman Latta pointed
735 out, streaming services drew more viewers than cable TV.
736 They snagged a nearly 35 percent share of total TV
737 consumption in the country. Streaming stretched its lead to
738 nearly 39 percent this past summer.

739 So what is going on here? First, it is important to
740 understand that how consumers view content is as important as
741 how they receive content. With the introduction of the
742 iPhone and other smartphones in 2007, the rapid proliferation
743 of screens began, allowing consumers to watch video content
744 whenever they wanted, wherever they wanted. But none of
745 these changes would have been possible without the
746 availability of an affordable, fast, and reliable broadband
747 connection, which is necessary to stream video.

748 Aided with the arrival of mobile screens and sufficient
749 computing power, the Internet was set to revolutionize the

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750 video marketplace, much like it had the newspaper and music
751 industries earlier in the decade. These changes created a
752 market shift away from watching television at a set time --
753 so-called linear programming -- and empowered consumers to
754 watch content on their own schedule.

755 This democratization of viewer choice started to chip
756 away at the long-dominant business model of cable television,
757 significantly altered consumer behavior, and fueled the
758 changes we will be discussing here today.

759 On balance, these changes have benefited consumers in
760 numerous ways. Competition and more consumer choice for
761 video programming is a good thing, and there are more choices
762 for video content and more ways to access that content than
763 ever before. Consumer behavior bears this out.

764 According to a nationally representative Consumer
765 Reports survey conducted earlier this year, roughly half of
766 American households say they subscribe to 4 or more streaming
767 services, and almost 1 in 10 subscribe to 9 or more.

768 Furthermore, most streaming applications allow consumers
769 to easily cancel any time during a given month, meaning
770 consumers are only obligated to pay for one month in which

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771 they can view as much content as they like, and -- during
772 that time and then cancel. As for the equipment required for
773 video streaming, all a consumer needs is a device that can
774 either host streaming applications, like a smartphone or many
775 TVs sold today, or a device that connects to a TV to host
776 these applications, many of which are less than \$50. This is
777 a stark departure from having to rent a set top box from a
778 cable or satellite company.

779 But it is not all good news. Subscribing to multiple
780 streaming platforms can also be expensive. In this respect,
781 the many choices offered by streaming require consumers to be
782 more conscious of their purchasing decisions in real time,
783 and cognizant of how much they are spending across the many
784 streaming apps they are subscribing to each month.

785 Moreover, many streaming services have raised their
786 prices recently. Of course, price increases are nothing new
787 for cable TV subscribers.

788 But perhaps the biggest harm facing consumers in the
789 video marketplace is the prevalence of blackouts, which
790 happen when an agreement isn't reached between a content
791 provider and a video distributor. Blackouts are both

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792 disturbing and anti-consumer, with an estimated 1,000 of them
793 having occurred since 2010.

794 To be crystal clear, these disputes are all about money
795 and universally harm consumers. The recent dispute between
796 Disney and Charter serves as Exhibit A for understanding this
797 problem. Because two multibillion dollar companies could not
798 come to an agreement on a price for carrying Disney's
799 content, 15 million charter spectrum cable subscribers were
800 denied ABC, ESPN, and other channels owned by Disney for more
801 than a week.

802 The problem of blackouts and other challenges facing the
803 video marketplace can and should be addressed by Congress in
804 a way that would better benefit consumers. Policymakers
805 would be wise to assess what is working, what is not, what we
806 value in a healthy video marketplace, and then act to level
807 the playing field for all video providers in a way to best
808 serve consumers. I outline some of these ideas in my written
809 testimony, and would be happy to discuss them further.

810 With that, I look forward to answering any questions you
811 may have. Thank you.

812 [The prepared statement of Mr. Schwantes follows:]

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813

814 *****COMMITTEE INSERT*****

815

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816 *Mr. Latta. Well, thank you very much for your
817 testimony. Again, we appreciate all of our witnesses for
818 being with us today. And at this time we will now begin the
819 questioning from the members of the committee, and the chair
820 will now recognize himself for five minutes of questions.

821 Mr. LeGeyt, Mr. Spellmeyer, and Mr. Gandler, if I could
822 ask if you could make maybe just a brief statement or answer
823 on this for about 30 seconds each, the media marketplace has
824 experienced significant changes since the passage of the
825 Cable Act of 1992. Local broadcast TV and cable are required
826 to operate in a regulated environment, while now competing
827 against streaming services which remain unregulated. If
828 these laws don't change in the next two to five years,
829 looking over the horizon, what is the outlook for your
830 industry?

831 *Mr. LeGeyt. Thank you for the question. The outlook
832 for the industry isn't a positive one.

833 You know, broadcasters are competing with these
834 unregulated streaming services for audience, advertising
835 dollars, and content rights. And as Big Tech especially has
836 thrown its weight into this space, advertising dollars are

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837 being gobbled up in local markets, consumers are cutting the
838 cord for a litany of reasons but reducing retransmission
839 consent fees from traditional pay TV outlets. And all of
840 that means less revenue for local stations to put into local
841 news and information absent some ownership reforms and absent
842 the FCC looking at the impact of the virtual MVPDs on this
843 marketplace.

844 *Mr. Latta. Thank you, Mr. Spellmeyer?

845 *Mr. Spellmeyer. So from my members' perspective, I
846 think I have outlined it pretty well in my written and my
847 oral testimony. If something doesn't change in the next few
848 years, we do face a real reckoning for consumers and for the
849 industry.

850 As I said, my members saw this coming, and have started
851 to migrate away from a primary focus on video delivery to
852 broadband delivery, and that broadband delivery has opened up
853 the ability for competition both for broadband service and
854 the over-the-top services that are flourishing.

855 *Mr. Latta. Thank you.

856 Mr. Gandler?

857 *Mr. Gandler. Yes, thank you. I would just like to

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858 state that I certainly empathize with, you know, all of my
859 colleagues here. I worked at a local television station in
860 the great state of Texas, in San Antonio, DMA No. 7 Hispanic;
861 DMA No. 35, general market. And so I understand the problem.

862 But if you look at Fubo, for instance, with respect to
863 retrans fees, our sub base has been growing by between 20 and
864 40 percent per year. So the amount of money that we are
865 generating on retrans is growing quite rapidly. At the same
866 time, as being one of the smallest players in the country, we
867 are also paying a pretty significant escalator over the last,
868 you know, call it six or seven years.

869 So when you couple the massive growth rate with the
870 escalators that we are paying, and the amount of the number
871 of stations that we carry, which right now is over 800-plus
872 -- and as I mentioned in my opening comments, over 99 percent
873 coverage across the United States with one blackout that
874 happened earlier this year -- I think we have done a pretty
875 good job driving revenue.

876 The last thing I will say as it relates to local news,
877 it is very important to identify the fact that a lot of the
878 programing that we are talking about here is owned by

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879 national broadcasters. And so the local news component is
880 quite different and is available on, you know, tens of
881 millions, almost 100 million-plus devices at this point in
882 time, where you can access any of the news channels across
883 any of the major sticks or connected TVs. So I think, from
884 that perspective, we have done a really good job ensuring
885 that we have viewpoint diversity and have access to as many
886 channels as possible across the United States.

887 *Mr. Latta. Thank you.

888 Mr. LeGeyt, broadcast stations are currently prohibited
889 from reaching more than 39 percent of U.S. households, while
890 streaming services can reach any household with a broadband
891 connection. Do the current laws and regulations such as
892 those on media ownership provide an equitable playing field
893 for the media marketplace today?

894 *Mr. LeGeyt. No, they absolutely don't. We have seen
895 the tremendous disruption posed by the Big Tech companies on
896 the advertising marketplace. The newspapers are the most
897 prolific example of that. The tremendous dominance in the
898 advertising marketplace of Big Tech has effectively destroyed
899 the newspaper industry. As a result, local broadcasters are

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900 filling that void. More than 50 percent of newsroom staffing
901 in the country is happening in local broadcast stations.

902 And, you know, our constraint on further investment in
903 those newsrooms is only inhibited by our ability to offer
904 advertisers more scale and receive greater revenue that we
905 can put into that reinvestment.

906 *Mr. Latta. Thank you.

907 Mr. Spellmeyer, in my about last 15 seconds here, with
908 the increasing trend toward cord cutting, how is your
909 industry addressing the changing demands of consumers who
910 seek more flexibility and choice in their content
911 consumption?

912 *Mr. Spellmeyer. That is a tough one, Mr. Chairman, in
913 seven seconds. But I would say that we are focusing on
914 trying to fix the trap that we find ourselves in. We are
915 squeezed by prices from -- for programing and content that
916 continues to rise, and we have no alternative other than to
917 pass it along, go out of business, or -- I have lost my third
918 one, I apologize. It is pass it along, it is go out of
919 business, or it is black them out. And nobody wants
920 blackouts. So my apologies.

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921 *Mr. Latta. Well, thank you very much. And my time has
922 expired, and I will submit my final questions for the -- our
923 witnesses to answer.

924 [The information follows:]

925

926 *****COMMITTEE INSERT*****

927

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928 *Mr. Latta. And at this time the chair now recognizes
929 the gentlelady from California, the ranking member of the
930 subcommittee, for five minutes.

931 *Ms. Matsui. Thank you very much, Mr. Chairman.

932 We are on the heels of one of the largest television
933 blackouts in recent memory between Disney and Charter.

934 Mr. Schwantes, you laid out your argument about the
935 regulatory explanations for blackouts in your testimony. But
936 we also know there are other factors at play. Mr. Schwantes,
937 do you believe changing market dynamics have a role to play
938 in the increasingly regular television blackouts?

939 And if so, how?

940 *Mr. Schwantes. The short answer is yes. I think we
941 have seen an increase in blackouts for some of the reasons
942 some of the other witnesses have pointed out. I mean, local
943 broadcasters have lost advertising to Big Tech. That is well
944 documented.

945 But a regulatory structure exists in the 1992 Cable Act
946 -- we will hear a lot about it today -- called retransmission
947 consent, where cable companies are obligated to carry these
948 local channels. So there is a lot of leverage with the

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949 broadcasters to extract -- and I don't blame them -- as much
950 as they can out of cable companies to put them on the air.

951 Are they increasing for that reason because they need
952 more money? Maybe. But I do know that these -- as Grant
953 just pointed out, these fees, these increased retransmission
954 consent fees, are passed on to consumers. Now, we will
955 quibble with how they are passed on in the form of junk fees
956 called the broadcast TV fee, which in some markets are more
957 than \$20 a month and they are not in the advertised price,
958 and that is killing consumers.

959 But I would say, between the two, blackouts are even
960 worse.

961 *Ms. Matsui. Okay, thank you.

962 Mr. LeGeyt, I am so thrilled to see your testimony
963 describes the many accomplishments, particularly of KCRA in
964 Sacramento. As a long-time viewer myself, I think the
965 pioneering local journalism they are doing on behalf of the
966 Sacramento region sets a national standard for excellence and
967 public service. During wildfires, elections, and everything
968 in between, they are working hard to keep Sacramento
969 informed.

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970 Mr. LeGeyt, we are all excited about the many video
971 options consumers have today, but can you talk about the role
972 free, local, over-the-air television and radio stations play
973 in promoting equitable access to information?

974 *Mr. LeGeyt. Thank you for the question. Local
975 broadcasting is unique because we are freely available to
976 every consumer who wants to access us over the air.

977 I take issue with the term that has been thrown around
978 thus far in this hearing, "a blackout," because a local
979 broadcast station never goes off the air. It may be that a
980 local broadcast station can't reach an agreement with a
981 provider that wants to repackage our programming and sell it
982 in a bundle to consumers. But the local station is never off
983 the air.

984 And so in times of emergency, when cell networks fail,
985 we are always there providing that service to local
986 communities. And it is important to know that these impasses
987 are last resorts, right?

988 *Ms. Matsui. Okay.

989 *Mr. LeGeyt. Ninety-nine percent of the time these
990 contractual carriage negotiations are concluded successfully

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991 without disruption. But when they are, we need to be there
992 however our consumers are accessing us because we are an
993 antidote to the type of misinformation that is happening
994 online.

995 *Ms. Matsui. Okay. Now, what about when natural
996 disasters have compromised Internet-based communications?
997 What function do over-the-air services play?

998 *Mr. LeGeyt. Yes, I think you just hit the nail on the
999 head, Congresswoman, which is that we are on the air. That
1000 is when local broadcasters, both television and radio, are
1001 doing our best work.

1002 And what is unique is we are not just there reporting
1003 during the natural disaster and assuring that our viewers and
1004 listeners have access to, you know, safety, the information
1005 they need, but we are also there in communities with the
1006 recovery from these natural disasters. We are boots on the
1007 ground ensuring that these communities can rebuild.

1008 *Ms. Matsui. Certainly. Earlier this year the FCC
1009 announced a proposal to require price transparency from video
1010 distributors. This would help prevent sticker shock and give
1011 consumers better information about the true cost of a video

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1012 service. Consumers deserve more transparency, and this is a
1013 step in the right direction.

1014 Mr. Schwantes, can you describe how these fees are
1015 obscured from consumers and advertising materials? And I got
1016 a warning sign already here.

1017 *Mr. Schwantes. Great. Thank you, Congresswoman. I am
1018 happy to.

1019 There is a long history in telecom of itemizing fees.
1020 Some of those are the obvious ones, like taxes and government
1021 fees, like a universal service fund fee, things of that
1022 nature.

1023 Going back to our favorite law of the day, the 1992
1024 Cable Act also allowed cable companies the discretion -- it
1025 did not mandate, but they had the ability to also itemize
1026 their own fees, what we call at Consumer Reports company-
1027 imposed fees. It is very popular now to call them junk fees,
1028 but let's keep it civil. And that is where we are seeing a
1029 lot of these fees. They are not in the advertised price,
1030 Congresswoman.

1031 We looked at a thousand bills back in 2018, and we found
1032 that the company-imposed fees -- so broadcast TV fee,

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1033 regional sports fee, HD technology fee, you name it, there is
1034 a name for all of them -- contributed 24 percent of the
1035 advertised price, that much -- like a 24 percent surcharge
1036 totaling \$37 a month. I would hazard a guess it is much more
1037 expensive today because those fees have only gone up.

1038 *Ms. Matsui. Thank --

1039 *Mr. Schwantes. And that is where they are headed.
1040 They are hidden in the fine print.

1041 *Ms. Matsui. Okay. Well, my time has run out. I will
1042 submit other questions.

1043 [The information follows:]

1044

1045 *****COMMITTEE INSERT*****

1046

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1047 *Ms. Matsui. And thank you very much.

1048 *Mr. Latta. Well, thank you very much. The
1049 gentlelady's time has expired. The chair now recognizes the
1050 gentlelady from Washington, the chair of the full committee,
1051 for five minutes.

1052 *The Chair. Thank you.

1053 We share concerns, Mr. LeGeyt, we share concerns about
1054 the FCC's decision to issue a hearing designation order for
1055 the Standard General and Tegna merger. This decision killed
1056 the creation of the nation's largest minority-owned, women-
1057 led broadcast company in U.S. history, and was not even
1058 brought to the Commission level for a vote.

1059 I am concerned that if the FCC continues down this path,
1060 they will silence voices and hurt the future of local
1061 broadcast. What would that mean for the future of the
1062 broadcast industry as it relates to mergers?

1063 And what message did this action by the FCC send to
1064 local broadcasters?

1065 *Mr. LeGeyt. Thank you for the question and for your
1066 attention to this issue.

1067 You know, I am very, very focused on incenting

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1068 investment into the local broadcast industry. I think every
1069 one of us, if we were to talk about the local stations in
1070 your district, would say, "I want more of the local news and
1071 local programing that those stations are offering," and that
1072 is only going to happen if we have investment in this
1073 industry.

1074 Uncertainty at the FCC as to whether a transaction, a
1075 proposed transaction, is going to get an up or down vote, and
1076 that up or down vote is going to happen in a timely fashion
1077 is absolutely paramount to ensuring that would-be investors
1078 will come into broadcasting.

1079 So I share your concern. I worry that it is having a
1080 chilling effect. We haven't seen those effects yet, but it
1081 is very much top of mind for the local broadcast industry.

1082 *The Chair. As a follow-up, I just -- I know -- so I
1083 don't know, you don't want to call them blackouts? What do
1084 you want to call them, "Programing not available"?

1085 *Mr. LeGeyt. We will call them impasses.

1086 *The Chair. Impasses.

1087 [Laughter.]

1088 *The Chair. Okay. When we reach these impasses and

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

1089 people do not have access and, right, there is -- they are
1090 not available, certainly that is -- we are seeing more of
1091 that, it seems.

1092 *Mr. LeGeyt. Yes.

1093 *The Chair. Even you are hearing it today, certain
1094 broadcast stations on cable programing. This weekend it was
1095 a local Spokane station, where we did not have access to
1096 important news updates and, as I mentioned, the Seahawks
1097 football game on Sunday.

1098 So I wanted to ask you and Mr. Spellmeyer if you would
1099 just walk us through the transmission -- retransmission
1100 consent negotiation process from broadcast and cable
1101 perspective, respectively, and what is the biggest challenges
1102 in reaching a deal?

1103 *Mr. LeGeyt. Yes, I think it is important to underscore
1104 that in the vast majority of these negotiations, they are
1105 resolved without any impact on viewers. And it is a worst
1106 case scenario for all parties if a viewer is impacted,
1107 because, obviously, we are in the business of reaching
1108 viewers.

1109 But look, we have talked about all the competition in

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1110 the marketplace, and it is absolutely paramount that local
1111 broadcasters have the ability to reinvest in local
1112 programming. Our retransmission consent revenues are a big
1113 part of that. You know, at times this is cast as, you know,
1114 behemoths against small guys, one side or the other.

1115 Certainly, Mr. Spellmeyer, I have a lot of sympathy for
1116 his smaller members, but your local Fox station is a great
1117 example. It is often times also small broadcasters going up
1118 against a large cable provider.

1119 So these things are not easy. But the negotiations
1120 ensure that local broadcasters can reinvest in their
1121 programming.

1122 *Mr. Spellmeyer. So from my members' perspective, there
1123 is an absolute need to fix this going forward. It is a
1124 product of the law that allows these blackouts to come into
1125 place.

1126 Mr. LeGeyt is correct that the vast majority of our
1127 negotiations are resolved without a blackout, and that is
1128 because my members roll over and accept the prices demanded
1129 by the broadcasters. It is what drives the fees that you see
1130 in my testimony. And we really can't continue to do this and

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1131 hope to have my members continue to serve as video providers.

1132 *The Chair. Okay.

1133 *Mr. Spellmeyer. It is much -- and the more important
1134 thing -- I don't want this to be a retrans hearing. This
1135 shouldn't be all about retrans. There is so many issues that
1136 we are stuck with it now, and I would love to have Congress
1137 fix it --

1138 *The Chair. Okay.

1139 *Mr. Spellmeyer. But we have got regulatory overhang
1140 that we need to deal with.

1141 *The Chair. Thank you, I want to get one more question
1142 to Mr. Gandler, because Fubo is a streaming platform offering
1143 TV, sports, and local broadcast content.

1144 And would you just speak briefly to how that has worked
1145 with the broadcasters to carry that local content on your --

1146 *Mr. Gandler. Yes, thank you. We carry over 800-plus
1147 local TV stations. It makes our negotiation with the
1148 broadcasters very easy. We have been ensuring that we don't
1149 go into blackout.

1150 But I will read you one quote from Mr. Tom Carter, who
1151 is the former president and chief operating officer of

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1152 Nexstar. And this is as of March 7. "We are in a dispute
1153 with CBS right now over the Fubo situation," Tom Carter said
1154 during a Morgan Stanley hosted investor conference. "But
1155 keep in mind that virtual MVPDs contribute less than 10
1156 percent of our distribution revenue. And our distribution
1157 revenue is about half of our total revenue. And Fubo is the
1158 smallest virtual MVPD we deal with. So we are talking about
1159 a relatively minor amount of money, quite honestly, to both
1160 us and CBS. So it is kind of easy to pick Fubo as a fight to
1161 have."

1162 So my point here is that it is very difficult to
1163 negotiate with local broadcasters because they don't own the
1164 Seahawks content. That is owned by the broadcaster. And the
1165 retrans fees that are paid, they are quite significant,
1166 number one.

1167 Number two, if you look at the history of these, you
1168 know, local station groups, they have basically have been
1169 using retrans to invest outside of local programming. If you
1170 note, Nexstar has acquired the CW network, which is not about
1171 local programming. It is about syndicated content.

1172 So, you know, I don't think it really is a last resort,

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1173 as you can see from this quote. So we are very happy with
1174 the current way the model works. And, you know, we have been
1175 very transparent with consumers. We don't have junk fees.
1176 We do have an RSN fee because we are a sports-first platform.
1177 But I think it works well because people get a free trial,
1178 which you don't get in cable. Then we send out a reminder to
1179 customers a week before. And so this --

1180 *The Chair. Thank you.

1181 *Mr. Gandler. This has been working quite well.

1182 *The Chair. My -- thank you very much. My time is
1183 expired.

1184 Thank you, Mr. Chairman, I yield back.

1185 *Mr. Latta. Thank you very much. The gentlelady's time
1186 has expired. The chair now recognizes the gentleman from
1187 Florida's 9th district for five minutes.

1188 *Mr. Soto. Thank you, Mr. Chairman. You know, in
1189 central Florida we love our sports and the options to view
1190 them, which is why we were all very relieved when we saw
1191 Disney and ESPN and Charter Communications bring that deal in
1192 for a landing. I will talk a little bit more about that in a
1193 second.

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1194 We also have value both local content and national
1195 content. In central Florida are the seventh largest media
1196 market. And so we want to hear stories about central
1197 Floridians. It is important for our citizenry to be educated
1198 on normal -- on issues happening among their local
1199 governments, state and Federal, weather, local sports, food,
1200 traffic, the arts, all absolutely critical things.

1201 And as we see this shifting landscape, broadcast, cable,
1202 satellite, social media, streaming, and amidst all this we
1203 see shifting revenues, right -- and, you know, these are
1204 mostly private-sector deals that will evolve. But there are
1205 some values that are important for my community: local
1206 content, access, diversity, and affordability, which is why
1207 we were big supporters of the ACP, which we already heard our
1208 ranking member talk about.

1209 And while these are primary -- primarily private-sector,
1210 arm's-length negotiations we have a duty to oversee, which is
1211 why we are here today, and when necessary legislate when
1212 these public values are threatened, which is why I was
1213 excited to see this deal come in for a landing without us
1214 having to get involved, the transformative multi-year

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1215 agreement, a majority of Disney networks and stations will be
1216 available to Spectrum's video customers. We even see some
1217 sharing between each of their online offerings, as well.

1218 So first for Mr. LeGeyt, what do you think this deal
1219 means for the future of other deals between local and
1220 national providers and cable offerings?

1221 *Mr. LeGeyt. Well, I certainly think the deal
1222 underscores all of the transformation that we are talking
1223 about here. But as it relates to local broadcasting, I think
1224 what it ensures and what it demonstrates is that the system
1225 does continue to work. These were tough negotiations. But
1226 at the end of the day, the local broadcast station was always
1227 available throughout the dispute, free, over the air to those
1228 viewers, and the parties came to a quick resolution.

1229 But there is a lot of disruption here. And I think some
1230 of the issues that were ultimately negotiated to an agreement
1231 between Disney and Charter demonstrate how much disruption
1232 really there is in this landscape posed by the streaming
1233 services, and how important it is for local broadcasters that
1234 we are going to be accessible on those streaming services.

1235 *Mr. Soto. Mr. Spellmeyer, it would be great to get

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1236 your opinion on this, too.

1237 *Mr. Spellmeyer. Thank you, sir. So the settlement, as
1238 I understand it, is a promising development for the industry,
1239 holding out the possibility that new and innovative
1240 approaches can be implemented.

1241 But that said, this is about -- these are private
1242 transactions, but it is about market power. Please don't
1243 forget about market power. Charter and Disney are two
1244 relatively equally-weighted players in a very big -- you
1245 know, with big pockets. And when it comes to the rest of us
1246 in the cable industry, we don't have that kind of balance.
1247 It is a much different transaction. There is a lot of really
1248 big players in this industry. None of them are at the table
1249 here today. You can call the broadcasters big. They are the
1250 biggest of the people at the table, but the really big people
1251 are not here.

1252 *Mr. Soto. Well, you would be happy -- I was talking to
1253 my local broadcasters last night, so you all are definitely
1254 at the table.

1255 It would be great to hear from Mr. Schwantes and Mr.
1256 Gandler. You know, streaming has been a super fast force,

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1257 and we have seen it reduce costs, but I am also concerned
1258 about content creation. Where do you think the balance lies
1259 ahead as we are looking at things like the SAG/AFTRA strike
1260 and -- of this balance between cost and content creation?

1261 Mr. Gandler and then Mr. Schwantes.

1262 *Mr. Gandler. Yes, thank you. You know, this isn't a
1263 real issue that we have to deal with directly. We acquire
1264 our content the same way that the large cable companies do,
1265 through licensing relationships with Disney, NBC, Universal,
1266 and others. So personally, you know, it is a shame that this
1267 is happening, but we are going through a very disruptive
1268 time. But I think the market forces have been working quite
1269 well to ensure that things go on.

1270 And just to mention one quick thing on the Charter
1271 situation, you know, as the dispute unfolded Charter had
1272 offered all its customers access and promotional pricing to
1273 go to Fubo, and Disney did the same, offering customers to go
1274 to Hulu live to ensure that everyone had access, at least
1275 over the weekend.

1276 *Mr. Soto. My time is expired. So --

1277 *Mr. Latta. Thank you very much. The gentleman's time

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1278 has expired. The chair now recognizes the gentleman from
1279 Florida's 12th district for five minutes.

1280 *Mr. Bilirakis. Thank you, Mr. Chairman. I appreciate
1281 it very much.

1282 Mr. Spellmeyer, with costs for cable companies to
1283 acquire content rising, and pressure to have even more
1284 content than competitors, is there less money available for
1285 new entrants and independent linear channels?

1286 Essentially, how do these smaller players compete, and
1287 what does this mean for diversity of content?

1288 *Mr. Spellmeyer. It does mean that it is more difficult
1289 to find the resources to add independent and new start-up
1290 networks. There are also capacity constraints that are on
1291 cable systems that are consumed by the dominant cable content
1292 providers who demand that, you know, not only that you carry
1293 1 channel or 2 channels, but these 18 other channels over
1294 here. And so it does significantly impact that ability and
1295 does hurt consumers, as well.

1296 There is some opportunity to go to the Web and see some
1297 of those content sources there. Again, I would come back to
1298 the importance of broadband being out there. Without a

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1299 competitive broadband network where you have a telephone
1300 company, a cable company, a wireless company, a cellular
1301 company, all with -- and a satellite television delivery, you
1302 have got potentially five people in a market that can beam
1303 that content in. And that is the biggest thing that has
1304 changed in the last decade for this video marketplace.

1305 *Mr. Bilirakis. Thank you, sir.

1306 Mr. LeGeyt, as you know, my district and my constituents
1307 were recently impacted by a hurricane, Hurricane Idalia. I
1308 thank you and our local broadcasters for keeping our
1309 communities safe before and during and after the storm, as a
1310 matter of fact. As we discuss today's competitive landscape,
1311 do you see the Big Tech companies performing any of this --
1312 these same protective services, sir?

1313 And I want to thank all of you for your testimony today,
1314 as well. But if you could respond, I would appreciate it.

1315 *Mr. LeGeyt. I don't. It is local broadcasters
1316 uniquely who are on the ground, as you just put it -- and I
1317 very much appreciate your acknowledgment -- who are on the
1318 ground both during the storm and then after, helping the
1319 communities come together.

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1320 And I don't know that I can overstate how much some of
1321 the changing landscape that we are talking about here is
1322 going to impact that localism. As Mr. Spellmeyer just put
1323 it, his smaller cable companies are either exiting the
1324 business or considering exiting the business. Mr. Gandler
1325 told us that Fubo is getting into the business because they
1326 see audiences flocking to streaming. And we know that if we
1327 had had this hearing 10 years ago, YouTube TV didn't even
1328 exist, now it is the fifth-largest linear pay-TV provider in
1329 the country.

1330 So the FCC needs to really look at whether local
1331 broadcasters are going to be able to provide that type of
1332 service after a storm reached their viewers in a world in
1333 which streaming continues to proliferate. This is something
1334 that the expert agency needs to provide a basis for
1335 examining.

1336 *Mr. Bilirakis. I will tell you what, I want to put a
1337 plug in for Dennis Phillips, who is a local broadcaster, a
1338 weatherman in our area, ABC Action News. His son was in
1339 Tallahassee, Florida State University. My son was at
1340 University of Florida. But he was giving us personal advice

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1341 on what to do. And the parents were very concerned, because
1342 it was scheduled -- the hurricane was actually, you know,
1343 scheduled to hit Tallahassee, and the parents were very
1344 concerned, but he put them at ease. And that is -- it is a
1345 great thing, it really is.

1346 So I have one more question. I don't know -- yes, I
1347 have a little more time. Mr. Spellmeyer, over the years, as
1348 the marketplace has changed and expanded, Congress has tried
1349 to find ways to support small market participants' ability to
1350 compete. This includes allowing the small MVPDs to
1351 collaborate for retransmission consent agreements.

1352 Since Congress has allowed this collaboration in 2019,
1353 have these MVPDs seen the success they were hoping for, and
1354 what are the existing barriers for these businesses, sir?

1355 *Mr. Spellmeyer. Thank you to Congress for the work
1356 that they did in 2019, and still are, in allowing my members
1357 to work through NCTCR buying cooperative to try to
1358 collectively negotiate this stuff.

1359 The last retrans cycle happened several months after the
1360 passage of the legislation, so it was really brand new in the
1361 first cycle. We are about to go through another cycle, and I

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1362 think this cycle will be the one that really allows us to
1363 judge how effective it has been. It has helped, but,
1364 obviously, look at the pricing. It hasn't slowed down in
1365 terms of its increases.

1366 We all want local broadcasters to succeed. Many of my
1367 members serve only a county or two counties. They are there,
1368 they go to the grocery store on the weekend, just like
1369 Members of Congress do. We want that local coverage, and we
1370 want to be there to help, and we try to use community access
1371 channels and things like that to promote it. We are all in
1372 this together, but we got to reverse some of the fundamental
1373 structural problems that were created by the passage of this
1374 law and the change in technology.

1375 *Mr. Latta. Well, thank you very much.

1376 *Mr. Bilirakis. Yes, thank you very much. I appreciate
1377 it.

1378 I yield back, Mr. Chairman.

1379 *Mr. Latta. The gentleman yields back. Before we go to
1380 our next member, I just want to let the witnesses know that
1381 we do also have another subcommittee running right now
1382 downstairs, and so we have members coming in and out. So

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1383 that is why you see members up and down and out of their
1384 chairs running down to ask their questions at this time.

1385 But at this time I do want to recognize the gentlelady
1386 from California's 16th district for five minutes for her
1387 opening -- or for her questions.

1388 *Ms. Eshoo. Thank you, Mr. Chairman, and thank you to
1389 our ranking member, as well, for holding this very important
1390 hearing, and to all of the gentlemen that are at the table,
1391 thank you for your testimony.

1392 I think if there is one thing that I would say for sure
1393 about this hearing, it is that we have a real problem with
1394 blackouts. And it is Congress that needs to cure that.
1395 Consumers are being hammered. It is totally unfair. It is a
1396 tool of negotiation by people that think of themselves as
1397 being innovators and entrepreneurs. What an idea. Let's
1398 just screw the consumer, you know? I mean, what is this?

1399 Congress hasn't updated the statutes that govern all of
1400 this. They are outdated laws and regulations, and they
1401 really contribute, I think, to the scourge of blackouts.
1402 Congressman Scalise and myself have introduced the Modern
1403 Television Act in the last two Congresses. We will again in

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1404 this Congress. And it would reform the existing regime to
1405 prevent blackouts and allow free market contract negotiations
1406 to happen under traditional copyright law.

1407 So I think that all of our constituents are worthy of
1408 that, and I hope our -- what -- everyone almost to a member
1409 has said something about these blackouts -- that we can do
1410 it, we can cast a light on this, and get it done.

1411 Mr. Schwantes, in your written testimony you discuss the
1412 Modern Television Act and the need to reform the existing
1413 regime, et cetera, et cetera, et cetera. Can you describe,
1414 in your view, the effect the MTA would have, and how it would
1415 benefit consumers?

1416 *Mr. Schwantes. Thank you, Congresswoman. It is good
1417 to see you.

1418 *Ms. Eshoo. Great to see you.

1419 *Mr. Schwantes. As you know, Consumer Reports --

1420 *Ms. Eshoo. Yes.

1421 *Mr. Schwantes. -- has supported your legislation.

1422 *Ms. Eshoo. Yes, thank you.

1423 *Mr. Schwantes. And it is kind of -- you know, I will
1424 be succinct. It is the definition of insanity. Keep doing

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1425 the same thing over and over, and expect a different result.

1426 We think, you know, is there a silver bullet here? No.

1427 I mean, there is some strong medicine that even I wouldn't

1428 support, so let's not even talk about that.

1429 But I do like copyright. Don't judge me. I was on the

1430 Judiciary Committee for nine years on the Senate side. So we

1431 like copyright law. It is not going to -- but to be super,

1432 super clear and realistic -- would not prevent blackouts. I

1433 mean, it still is a private contract negotiation.

1434 I really do like the baseball-style arbitration in the

1435 law that -- where, instead of going to a blackout and you

1436 miss the U.S. Open and potentially Monday Night Football, you

1437 can keep the station on for 60 days and figure it out.

1438 Again, is that perfect? I don't know, but I am open to

1439 trying new things.

1440 The last thing I will say -- and Mr. Spellmeyer alluded

1441 to it -- a lot of these deals -- and again, I am not --

1442 Charter, but they are going up against Disney, and Charter is

1443 big, the second largest cable company in the country.

1444 *Ms. Eshoo. Right.

1445 *Mr. Schwantes. But it is not just you are negotiating

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1446 for ABC, you are negotiating for -- you have got to take all
1447 of those channels, you know, and come up with a package for
1448 that. Some observers I have seen, it is like, let's just
1449 make -- you just have a negotiation for the local channels.
1450 And all that other cable property, you can have that in a
1451 separate negotiation, but let's look at the local channels
1452 and do that.

1453 But I think copyright, there is a different level of
1454 incentives and it is more akin to what the virtual -- the
1455 virtual world is a copyright world. Thank you.

1456 *Ms. Eshoo. Thank you.

1457 Mr. Spellmeyer, in your written testimony you talk about
1458 the loopholes that allow broadcasters to purchase more than
1459 one of the top four stations in a local market. How do these
1460 loopholes and the resulting consolidation in local markets
1461 contribute to blackouts?

1462 First of all, do you think they do? And if so --

1463 *Mr. Spellmeyer. Well --

1464 *Ms. Eshoo. -- your view on that?

1465 And how else does station consolidation negatively
1466 impact consumers?

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1467 *Mr. Spellmeyer. I believe, as I have talked earlier,
1468 this is about market power. To the extent local -- to the
1469 extent any entity is allowed to acquire and control more
1470 stations, more content, that only sets the stage for an abuse
1471 of market power.

1472 There are a number of terms that I know fly around the
1473 industry, things like "sidecars," that is a discussion about
1474 how you own somebody, but you don't technically control them
1475 under FCC definitions. There is a bunch of minutia that I am
1476 still learning. I have moved over to this job last year,
1477 trying to sort through all the history of 25 years at the
1478 FCC.

1479 But I fundamentally agree with you. We need to --
1480 Congress needs to step in and fix some of this. The FCC
1481 can't do it. Or if they do it, it will just get ping-ponged
1482 around again and litigated. Congress needs to fix it. We
1483 applaud your and Mr. Scalise's legislation. You have been
1484 pushing this for, what, four or five sessions now? And I
1485 don't think the situation has gotten any better.

1486 *Ms. Eshoo. No.

1487 *Mr. Spellmeyer. It is deteriorating. You can see it

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1488 in my charts. You can see it in the blackout statistics that
1489 were cited. And it is an important topic for this committee
1490 to continue to address.

1491 *Ms. Eshoo. And to the witnesses that I haven't asked
1492 questions here, you will be receiving mine in written form.

1493 [The information follows:]

1494

1495 *****COMMITTEE INSERT*****

1496

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1497 *Ms. Eshoo. I appreciate all of your testimony.

1498 And with that, Mr. Chairman, I yield back.

1499 *Mr. Latta. The gentlelady's time has expired, and the
1500 chair now recognizes the gentleman from Michigan's 5th
1501 district for five minutes.

1502 *Mr. Walberg. Thank you, Mr. Chairman, and thanks to
1503 the panel for being here, and thanks for the services you
1504 provide.

1505 The video marketplace has changed dramatically, to say
1506 the least, even the last few years. Consumers have more
1507 options than ever to customize what works best for them based
1508 on price, content, connection, and more, as they ought to. I
1509 myself use over-the-air service to get my wonderful local
1510 broadcast channels. I hope that doesn't shock anybody.

1511 [Laughter.]

1512 *Mr. Walberg. I also have accounts for streaming, as
1513 well.

1514 This plethora of options as a result of letting the
1515 market work without heavy-handed government interference.
1516 Competition for programing and viewers is robust, and in this
1517 environment we should be looking at ways we can make this

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1518 marketplace even better for our constituents.

1519 Mr. LeGeyt, we have heard the term "retransmission
1520 consent" and "retransmission consent fees" cited as the
1521 reason that MVPD prices are so high in comparison to several
1522 virtual MVPDs. Can you please describe what is driving the
1523 rising cost of transmission consent fees?

1524 *Mr. LeGeyt. Thank you for the question. Local
1525 broadcasters are competing for expensive content, we are
1526 competing for advertising dollars, and we are competing with
1527 for eyeballs with behemoths. You know, we have got a set of
1528 regulations that we operate under, premised on the idea that
1529 broadcasters only compete with one another in local markets.
1530 And the reality is we compete with everyone.

1531 And the only way that we have the dollars to reinvest in
1532 local programming -- and, you know, I think in some ways the
1533 proof is in the pudding. Over the last decade local news has
1534 increased by 78 percent in markets across the country, the
1535 time spent on local news coverage. We need those
1536 retransmission consent fees.

1537 Prices, the cost of doing business has gone up for all
1538 of us at the same time that the competition has become more

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1539 fierce. And this is really about being able to reinvest in
1540 the local news, local programing that serves as the antidote
1541 to the type of disinformation on social media that I know
1542 this committee is so concerned with.

1543 *Mr. Walberg. Yes, very much so.

1544 Mr. Spellmeyer, how has the price of content from
1545 broadcasters versus the cost of other programing changed over
1546 the last several years?

1547 And secondly, is it more expensive to carry broadcast
1548 content versus other channels?

1549 *Mr. Spellmeyer. Two very good questions, sir. I would
1550 direct you to the last page of my testimony. I have got a
1551 chart that documents aggregate retrans fees paid to all four
1552 broadcasters. In one particular market of one of my members,
1553 who is a relatively medium-sized provider, you know, it is
1554 2023, \$27 a month across the 4 broadcast networks. So it is
1555 substantial.

1556 I honestly do not know the answer to the question as to
1557 what my members, on average, pay for pricing to other content
1558 providers. You know, as an association I try to stay away
1559 from the details of pricing in the marketplace. But I can

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1560 direct you to the second chart, which talks about aggregate
1561 programing expense hitting \$80 a month in that particular
1562 local market.

1563 So, you know, it might be a third of the total. How it
1564 -- and I think there are a couple of networks such as ESPN
1565 that are particularly expensive for my members to acquire.
1566 All of it is driven by local -- as I cited in my testimony --
1567 sports. Not local -- sports programing drives overall
1568 programing costs to a considerable extent.

1569 *Mr. Walberg. Surprise, surprise.

1570 *Mr. Spellmeyer. And you know, and we all love sports,
1571 but that is where we are -- that is how we got to where we
1572 are at.

1573 *Mr. Walberg. Thank you.

1574 Mr. Gandler, as a virtual MVPD, Fubo isn't under the
1575 same retransmission regime as MVPDs, yet services like yours
1576 still carry the broadcast channels that my constituents rely
1577 on for our local news, sports, and weather. How does your
1578 negotiating process work?

1579 *Mr. Gandler. It is quite complicated, as you can
1580 imagine, sir.

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1581 *Mr. Walberg. Make it as simple as possible.

1582 *Mr. Gandler. Yes, I wish.

1583 *Mr. Walberg. And you don't have to kill me if you tell
1584 me.

1585 [Laughter.]

1586 *Mr. Gandler. So, you know, essentially, we are
1587 negotiating with the four largest media companies that own
1588 the broadcast networks. And as part of those negotiations,
1589 they also act as a proxy for us in our retrans deals.

1590 It is important to note that if you look at our retrans
1591 escalators, right, we obviously started at a much higher
1592 price than any of the previous groups, whether it is telco or
1593 cable or satellite. But our escalators, if you look over the
1594 last seven years since we have launched our platform,
1595 basically we are well ahead, multiples ahead of the inflation
1596 rate, and that includes 2021 and 2022. So it is quite
1597 expensive.

1598 *Mr. Walberg. Thank you for your deference --

1599 *Mr. Latta. Well, no, thank you very much. And thank
1600 you for your questions.

1601 And just to let everybody know, the -- when they set up

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1602 today they did not put the box in front of all of you with
1603 the lights. So the only light that we have -- when you -- I
1604 guess what I am going to have to start doing, when time is
1605 expired you will hear -- so you will know. But I am sorry
1606 that they did not put the boxes in front of us today and for
1607 you, as our witnesses. So sorry about that.

1608 The next member to ask questions is the gentleman from
1609 California's 29th district for five minutes.

1610 *Mr. Cardenas. Thank you, Chairman Latta and Ranking
1611 Member Matsui, for holding this hearing. And I want to thank
1612 our witnesses for sharing your expertise and your knowledge
1613 with us today before the American people.

1614 Americans have never had more options for accessing
1615 media content. Consumers can buy an antenna and watch
1616 broadcasts for free, or they can watch TV through their cable
1617 or satellite provider or, increasingly, consumers can turn to
1618 streaming. Streaming has allowed diverse content to
1619 flourish, something consumers have clearly been waiting for.

1620 As usual, in the media economy, Latino consumers lead
1621 the way in transitioning to streaming services, with 43.6
1622 percent of Latino audiences watching TV via streaming last

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1623 year, compared to around 35 percent of the general audience.
1624 This shows the value of having diverse, inclusive content in
1625 a variety of languages, including Spanish, accessible across
1626 multiple platforms. Streaming has also given families
1627 options when deciding what they spend their resources on.
1628 This type of content choice is not possible without streaming
1629 platforms.

1630 Knowing that this shift in consumption patterns is
1631 happening, we need to meet consumers where they are. We need
1632 to make sure that viewers can watch the shows they want to
1633 see, get connected to trustworthy news that is relevant to
1634 them, and have flexibility to choose how they consume their
1635 media.

1636 Mr. Schwantes, as you talk about, there has been a boom
1637 in consumer options in accessing TV content. We all agree
1638 the consumer should have flexibility and choice. Not so long
1639 ago, in order to watch local news and other video content,
1640 you had to be in front of a television at a certain time.
1641 Can you talk about the variety of options where Americans can
1642 consume local news and video content, which is critical for
1643 communities like the ones in my district, high -- lower-

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1644 income and higher immigrant communities?

1645 *Mr. Schwantes. Thank you, Congressman. That is a
1646 great question.

1647 First, in the traditional MVPD cable, satellite TV
1648 environment, DVRs are quite ubiquitous, so consumers can
1649 record the local news and watch it on their own schedule.

1650 But I will say in the streaming environment, from what I
1651 am familiar with on streaming platforms, there are apps
1652 called, like, NewsON and Haystack, where you can watch local
1653 news from across the country. I mean, I grew up in north
1654 central Wisconsin, and I miss my local news. And so I can
1655 use one of those apps to access that local news for all the
1656 reasons that we have heard today.

1657 I mean, we support our local broadcasters. We think it
1658 is very, very important content. And I agree it is the best
1659 defense against misinformation, as Mr. LeGeyt pointed out.

1660 *Mr. Cardenas. Thank you. Can you talk about how the
1661 boom in popularity of video streaming services has affected
1662 access to affordable, non-English language programming?

1663 *Mr. Schwantes. Sure. Part of what we do at Consumer
1664 Reports is we review all kinds of things, not just cars, and

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1665 we do look at streaming platforms. And one -- and we
1666 recommend them, and we go through the prices and how they
1667 work, et cetera. And what we discovered, I want to say in
1668 the last couple of years, Univision launched -- they changed
1669 the name recently, but it is VIX, I think in Spanish, it is
1670 pronounced VIX. It is free, ad supported, or it is \$6 a
1671 month for ad free.

1672 But they have -- it is a -- well, it is like a vMVPD.
1673 It is got 50 channels. But children programing, live sports,
1674 a lot of soccer, but also content from Brazil, Colombia, and
1675 Mexico. And that is a steal, even -- you know, free for --
1676 it is free if you want to put up with the ads or it is six
1677 bucks. And that has hundreds of thousands of programing on
1678 it, and it is all in Spanish.

1679 And I will say for the other streaming platforms, there
1680 is a lot of -- when you go through the menus, there is a
1681 Spanish language option. So you can just look at that
1682 program, as well.

1683 And let's not underestimate the value of subtitles.

1684 *Mr. Cardenas. Yes. Growing up in a -- my parents are
1685 immigrants from Mexico. Growing up, when I heard the word

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1686 "VIX," I thought something was going to be rubbed across my
1687 chest.

1688 [Laughter.]

1689 *Mr. Cardenas. For whatever ailed me, Vicks was the
1690 solution.

1691 But on the topic of multi-language, with streaming being
1692 so available, and it being available to all income levels,
1693 what do you see today and tomorrow looking like when it comes
1694 to more accessibility in that sense or less accessibility?

1695 And if there is a cause and effect to more or less, what
1696 are the main factors?

1697 *Mr. Schwantes. I will be succinct. I see more
1698 accessibility, but it all depends on the big giant assumption
1699 in the room: broadband. None of this works without an
1700 affordable broadband connection.

1701 We at Consumer Reports are on record supporting the
1702 Affordable Connectivity Program, and that is the best way to
1703 get low-income Americans online. I don't think anyone here
1704 on the panel would disagree. And that is the key to
1705 streaming.

1706 *Mr. Cardenas. Okay. Well, we did more in the last

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1707 couple of years when it comes to broadband in American
1708 history. Hopefully, we will continue that trend going into
1709 the future.

1710 My time having expired, thank you very much, Mr.
1711 Chairman.

1712 *Mr. Latta. The gentleman's time has expired, and the
1713 chair now recognizes the gentleman from Georgia, the vice
1714 chair of the subcommittee, for five minutes.

1715 *Mr. Carter. Thank you, Mr. Chairman, and thank all of
1716 you for being here. This is extremely important. Obviously,
1717 in this video marketplace what we have seen over the last 30
1718 years is -- has been amazing and transformational, and no
1719 question about it. We all recognize that modernization is
1720 imperative, and that is why this hearing, Mr. Chairman, thank
1721 you, is so timely.

1722 Mr. Spellmeyer, I want to start with you. I noticed
1723 that different sports leagues, whether it be the NFL or the
1724 SEC -- Go Dawgs -- or the Big Ten are obtaining significant
1725 media rights, and that is causing a lot of disruption in the
1726 leagues. And just the media fees, the media rights fees that
1727 TV networks are obtaining, how does the rising cost of sports

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1728 media rights affect cable companies?

1729 *Mr. Spellmeyer. It is directly related and it is
1730 driving it. And I have acknowledged that. And it starts
1731 with the NFL and what that does to both broadcast costs as
1732 well as, let's call it ESPN and Amazon costs, and it goes
1733 from there. The NBA drives TNT and TBS costs, and it gets
1734 passed along to my members in a take-it-or-leave-it
1735 situation.

1736 And I want you to understand this is so constrained.
1737 They stop us from -- the contracts that we have to sign stop
1738 our members from telling anybody what the price is that we
1739 are paying for it, either separately or, you know, in the
1740 aggregate. And it is those kind of things that really make
1741 it difficult.

1742 People question retrans fees. We want to be able to put
1743 and clearly label retrans fees on customers' bills so people
1744 understand that in the aggregate, you know, it costs you X
1745 for all three channels or, you know, \$12 for ABC -- and I am
1746 picking that out of the air. And if we don't, that gets us
1747 back to customer choice.

1748 We talked a long time ago about a la carte, and let's

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1749 let consumers decide what they want to get and where they
1750 want to get it from. But please understand that the content
1751 providers are the ones forcing us to bundle this all up
1752 together.

1753 *Mr. Carter. So you are saying the NFL is the one that
1754 is that is causing you --

1755 *Mr. Spellmeyer. The NFL has done very well under Mr.
1756 Goodell's leadership over the last decade. And, you know,
1757 you see it in player salaries and you see it in team
1758 valuations.

1759 *Mr. Carter. Okay. I want to ask all of you, you know,
1760 we -- the majority of the panelists here today, you either
1761 create your own content or you distribute content or maybe a
1762 combination of both. Should everyone on the panel have the
1763 same regulatory framework? Is that even possible?

1764 I will start with you, Mr. LeGeyt.

1765 *Mr. LeGeyt. Well, first off, I do want to acknowledge
1766 the sports rights are the elephant in the room here. When we
1767 talk about what is -- what are the costs of putting out a
1768 product that are putting pressure on everyone in this media
1769 landscape, my networks, my affiliates, television, radio, it

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1770 is sports rights because, as all of the viewing is getting
1771 disaggregated, the viewing that has the most value,
1772 especially to advertisers, is the viewing that you have to do
1773 in real time. And that is sports. Sports are the programming
1774 that you don't DVR it and watch it later. It has a lot of
1775 value. So that is putting pressure on all of us.

1776 In terms of the regulatory environment, I do think all
1777 of this is complicated, but there is no doubt that the
1778 regulatory framework that has enabled local broadcasters to
1779 negotiate retransmission consent with traditional pay TV and
1780 satellite companies for the last 30 years has resulted in
1781 tremendous investment in local content and local news to your
1782 community. And the FCC at least needs to examine whether, as
1783 audiences are migrating to streaming, that some elements of
1784 that regulatory framework may be relevant there.

1785 *Mr. Carter. Okay.

1786 Mr. Spellmeyer?

1787 *Mr. Spellmeyer. In 46 seconds.

1788 *Mr. Carter. Yes, I am sorry.

1789 *Mr. Spellmeyer. We desperately need a level playing
1790 field. We need antitrust oversight, competition oversight.

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1791 We need a level playing field. There is lots of ways to do
1792 that. You can see this as immensely complex.

1793 In my opening -- message in my opening statement is be
1794 careful what you do. This won't be a bill that we can pass
1795 in, you know, one legislative hearing, but it is going to
1796 take some time. But it does need to happen, or the prices
1797 will continue to escalate, blackouts will continue, and
1798 consumers will lack choice.

1799 *Mr. Carter. Okay.

1800 *Mr. Latta. Well, thank you.

1801 *Mr. Carter. I am out of time. Thank you, Mr.
1802 Chairman. I yield back.

1803 *Mr. Latta. And again, the chair will just have to say
1804 this several times since members are coming up from the other
1805 subcommittee. They failed to put the light boxes on the
1806 witness table. So at five minutes I will bring the gavel
1807 down so the witnesses know when time has expired.

1808 Our next member to ask questions is the gentlelady from
1809 Texas for five minutes.

1810 *Mrs. Fletcher. Thank you so much, Mr. Chairman.

1811 Thanks to you and Ranking Member Matsui for holding this

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1812 really important hearing. It has been very interesting, and
1813 I appreciate all of your testimony and perspectives. There
1814 are a lot of things that have come up, and I think it has
1815 been a pretty frank conversation, which is useful because I
1816 think it is complicated. And looking at it from the policy
1817 perspective, we have to understand the things that are good
1818 ideas and the things that are not good ideas.

1819 Mr. Schwantes, I am going to come back to you about
1820 that, because you tempted all of us saying there were things
1821 you wouldn't support. So definitely want to hear more about
1822 that in your conversation with Congresswoman Eshoo.

1823 But I want to first follow up on something that you just
1824 said, Mr. Spellmeyer, when you were talking about the a la
1825 carte kind of provisions and options, and talking about what
1826 is driving these costs and the lack of transparency. And so
1827 thinking of it from the consumer perspective, certainly I
1828 hear my constituents saying they have choices to buy packages
1829 full of things that they don't necessarily want, and that may
1830 be a part of why they are not buying the packages at all.

1831 They would like something -- I know that is one of the
1832 suggestions that you made, Mr. Schwantes, to have, you know,

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1833 just a very basic package that people can get.

1834 But what do you think is the likelihood, given the
1835 landscape that you are in, that we are going to see that kind
1836 of a la carte selection when it comes to your members?

1837 And is that something that is going to be just dealt
1838 with -- do you think that is something that is really
1839 possible in the policy space and in the legislative space
1840 that we are talking about here, or that that is going to just
1841 continue to evolve as the marketplace has so much over the
1842 last decade?

1843 *Mr. Spellmeyer. Yes. So we have tried for several
1844 decades at ACA to push programmers to allow us to do a la
1845 carte, or anything close to a la carte. And it is
1846 consistently rejected. You know, it is -- you take the
1847 entire programmer's large, aggregated bucket of content, and
1848 you have got to put it all on.

1849 So that -- I think it is part of the Charter-Disney
1850 thing, it is part of what Charter wanted to do. They are not
1851 a member of mine, but I will tell you that, based on what I
1852 understand, they made some progress in terms of getting
1853 Disney to allow them to offer a couple of packages that were

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1854 slightly smaller than the giant packages that are there
1855 today. And so maybe a little bit of movement there.

1856 But for my members, without leverage over the content
1857 providers, it is a, you know, sorry, take it or leave it.

1858 *Mrs. Fletcher. Well, thank you for that.

1859 And Mr. Schwantes, I want to come back to you because I
1860 appreciated your written testimony and sort of suggestions
1861 that you made. And you said in your opening statement, as
1862 well as in your testimony, that we need to be thinking about
1863 what is working, what is not working. I was -- it piqued my
1864 interest when you said, "There are some things I wouldn't
1865 do," because I think that that kind of insight, knowing how
1866 much you are studying this marketplace and understand what
1867 consumers want and what is sort of a reasonable landscape --
1868 I am particularly interested in what you don't support, if
1869 you want to share that with us.

1870 And then also kind of just open it up to you on some of
1871 the things that you think sort of are working and are not
1872 working. And I guess what I would love to get, a sense of
1873 your priorities. What should be our priorities as we are
1874 starting -- as we are doing this work?

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1875 *Mr. Schwantes. Thank you, Congresswoman Fletcher.

1876 I will start by saying we don't support converting or
1877 applying the Cable Act to vMVPDs like Fubo and YouTube TV.
1878 That proceeding was started in 2014, and I do agree with my
1879 other friends on the panel that the world has changed
1880 significantly in 9 years. But I don't think taking an old
1881 law from 1992 before we even thought about the Internet and
1882 applying it to vMVPDs is the way to go.

1883 That said -- and this might surprise some folks -- we
1884 think less regulation could be a good thing, but we have to
1885 agree on some core things. There are great things in the
1886 broadcaster and cable world that don't apply to YouTube TV
1887 and virtual MVPDs, like privacy protections. That is
1888 something that -- we have got strong privacy in cable and
1889 broadcast world. That is something, as we take away all the
1890 laws, if we just imagine, like, no Cable Act, how are we
1891 going to figure it out?

1892 And the things like that. Price transparency. What are
1893 we going to do on children's programing and educational
1894 programing? What are we going to do on privacy? What about
1895 diversity? And let's have a conversation about media

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1896 ownership caps, and really -- and then bring it back to low
1897 cost.

1898 I mean, basic cable was a creation from the 1992 Cable
1899 Act. It is supposed to be the local channels and some public
1900 access channels. That was kind of designed for, like, you
1901 know, if you want nothing else, you can get that if you are a
1902 low-income household or if you just want you're your basic
1903 channels. We have -- in some markets now the broadcast TV
1904 fee is higher than the basic cable fee, and which one is
1905 paying for which?

1906 And so those plans, I mean, I don't have the numbers off
1907 the top of my head, that is not cheap at 50 or 60 bucks a
1908 month. But I think that is the conversation we have to have
1909 is let's start over, let's figure out what we can all agree
1910 on, and then it -- but as everyone said, it is complicated
1911 and it is tough.

1912 *Mrs. Fletcher. Well, thank you so much for that.
1913 Thanks to all of you. It is complicated. It is tough. And
1914 with five minutes, none of us can really get to all of the
1915 things that we would like to cover. But I appreciate your
1916 insights, and I think this is a really important conversation

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1917 to have.

1918 And I thank you again, Mr. Chairman and Ranking Member
1919 Matsui, for bringing us together for this hearing today.
1920 Thanks.

1921 *Mr. Latta. Thank you very much. The gentlelady's time
1922 has expired, and the chair now recognizes the gentleman from
1923 Pennsylvania for five minutes.

1924 *Mr. Joyce. Thank you, Mr. Chairman, and thank you for
1925 holding this hearing. I think this is an important topic
1926 that resonates throughout America today.

1927 It has been too many years since we have addressed this
1928 issue. We have recognized that and discussed it frequently
1929 today. And the video marketing -- the video programming
1930 market has drastically changed since then, with the advent of
1931 streaming and the new media options that consumers are
1932 embracing.

1933 My constituents in Pennsylvania's 13th district are some
1934 of thousands of Americans negatively affected by TV
1935 blackouts. And at this very moment during this very hearing,
1936 4 counties and 350,000 constituents of mine in the Altoona
1937 Johnstown area are without their CBS affiliate, WTAJ. From

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1938 critical weather alerts to ground-breaking investigative news
1939 and information within the community, local journalism is the
1940 backbone of America, especially in rural Pennsylvania. This
1941 blackout, along with others, underscores the current problems
1942 that the industry and the consumers are currently facing.

1943 Mr. Spellmeyer, what reforms do you anticipate that this
1944 market will need to prevent blackouts from occurring and
1945 create sustainable access to local news?

1946 *Mr. Spellmeyer. Thank you, Congressman Joyce.

1947 I will say that there are -- I am going to try to keep
1948 this at a high level. I figured someone would ask me a
1949 question about how do we fix this. I think we need an equal
1950 footing for all players in the marketplace.

1951 I think we need to protect consumers from the runaway
1952 rates that they have experienced over the course of the last
1953 two decades, driven, as we have discussed, by sports
1954 programing and other small segments of the market.

1955 And the third, that choice is a priority. And that is
1956 where I discussed a la carte here.

1957 So I guess I have already hit all three that I outlined
1958 on my note card. But if we don't -- there is still -- those

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1959 blackouts are real. I know that consumers in those
1960 marketplaces have the opportunity to go and still grab over-
1961 the-air signals. But how many of us have rabbit ears laying
1962 around our house right now --

1963 *Mr. Joyce. Very few.

1964 *Mr. Spellmeyer. -- to go out and do it. And do you
1965 know how to unplug the back of your TV and plug that one in?
1966 I don't.

1967 *Mr. Joyce. Mr. Spellmeyer, addressing a different
1968 issue, the cost of getting content is also impacted by the
1969 cost of fiber that we are building.

1970 *Mr. Spellmeyer. Yes.

1971 *Mr. Joyce. So the regulatory environment that isn't
1972 actually so exciting to some people, but important, issues
1973 like pole attachment fees, cost to cross a railroad, access
1974 to Federal rights of way, they all add up.

1975 So content costs are one major component of a consumer's
1976 bill, but so is the actual cost of building, maintaining, and
1977 upgrading the networks. So do you feel that permitting and
1978 regulatory relief would be essential to your business?

1979 *Mr. Spellmeyer. Absolutely essential. My members have

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1980 been really busy over the course of the last five years.

1981 Over the course of the last five years we have we have grown

1982 the number of homes passed in the aggregate by one-third.

1983 And we did that during a pandemic. We are very focused on

1984 building broadband.

1985 The biggest issue that we hit -- I have been out meeting

1986 my members over the course of the last 18 months as I took

1987 this job. The number-one consistent issue that comes up is

1988 not retransmission consent. It is the cost of access to

1989 rights of way and what we need to deploy those broadband

1990 assets. And it can be the subject of an entire additional

1991 hearing, but it is the most talked-about thing that I get.

1992 And thank you for your leadership on it.

1993 *Mr. Joyce. Mr. LeGeyt, during this hearing we have

1994 heard about the outdated regulations that apply to

1995 broadcasters. In your opinion, which regulations do you

1996 believe have a detriment to your business, specifically?

1997 *Mr. LeGeyt. Thank you for the question, Congressman.

1998 I mean, first and foremost, the idea that local

1999 broadcasters compete and are restrained with restrictions on

2000 our scale, 39 percent ownership cap on our ability to reach

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2001 national audiences in the country, local ownership rules that
2002 impact our scale, you know, we are in a world where we are
2003 competing every day with YouTube, Facebook for advertising
2004 dollars. This is stifling our ability to compete fairly for
2005 those dollars.

2006 And similarly -- and no one here would suggest that the
2007 system is perfect, but the retransmission consent system has
2008 enabled local broadcasters to invest in local programing,
2009 local content. Without it we look a lot more like the
2010 newspaper industry. I think everyone in this room knows how
2011 that story is ending right now.

2012 It has been critical to enabling local broadcasters to
2013 invest in communities, invest in news. The shift of
2014 audiences from cable and satellite over to these, you know,
2015 cable replacement services, the vMVPDs, is going to impact
2016 those revenues. And this is something that the expert
2017 agency, the FCC, needs to take a look at.

2018 *Mr. Joyce. My time has expired. I thank all the
2019 witnesses for being with us here today.

2020 Thank you, Mr. Chairman. I yield.

2021 *Mr. Latta. Thank you. The gentleman yields back, and

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2022 the chair now recognizes the gentlelady from Michigan's 6th
2023 district for five minutes.

2024 *Mrs. Dingell. Thank you, Mr. Chair, and thank you and
2025 Ranking Member Matsui for holding this hearing. I think we
2026 are all talking about a lot of issues we could probably use a
2027 lot more hearings on, because the media landscape has changed
2028 so much since our last hearing on this topic, and we really
2029 need to be talking about what Congress should be doing, how
2030 we work with you.

2031 There is so much we can talk about, but because the time
2032 is limited I am going to focus on the state of programing for
2033 children. Our best local broadcasters often remain the
2034 backbones of our communities, not only providing critical
2035 journalism and emergency alerts, but also contributing in
2036 other ways beyond the screen, such as hosting community
2037 service projects, job fairs, and food drives. I love all of
2038 my local stations, and everybody knows that.

2039 For years, broadcasters were the gold standard when it
2040 came to trusted children's content, from Sesame Street to
2041 Saturday morning cartoons and everything in between. We
2042 knew, by and large, that when something was airing on one of

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2043 our local broadcast channels, there were standards in place
2044 to keep the content safe for our kids.

2045 With the proliferation of streaming, there have never
2046 been more options for parents looking for programming for
2047 their children. Unfortunately, while there is a lot of
2048 positive educational online content, one can also find some
2049 pretty dangerous rabbit holes: disturbing imagery,
2050 programming with little educational value, excessive
2051 commercials in online spaces that children are frequenting.

2052 Moreover, we know well in this subcommittee that too
2053 many families still do not have broadband that is required to
2054 access all this new online content. Many still rely on
2055 traditional platforms like broadcasting and cable to access
2056 educational programming for children. Indeed, at the height
2057 of the pandemic, Michigan Public Television stations altered
2058 their entire broadcast schedule to reach families without
2059 broadband or computer access with age-appropriate educational
2060 programming. It was a lifeline for families in a challenging
2061 time.

2062 Mr. Schwantes, can you speak to the state of children's
2063 programming?

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2064 What advice does Consumer Reports have for parents
2065 navigating this increasingly difficult landscape?

2066 *Mr. Schwantes. Thank you, Congresswoman. I will agree
2067 that broadcasters are the gold standard here for children's
2068 programing. We have had laws on the books since the 1990s --
2069 they are called Kid Vid in the jargon -- that regulate the
2070 kind of content. Unfortunately, some of those rules were
2071 relaxed in 2019, so they no longer -- they can air earlier on
2072 the weekend, and they don't -- no longer need to be 30
2073 minutes in length, and we lost the trust mark, E/I, so a
2074 parent could see that that was educational programing.

2075 But I do agree that the migration to streaming -- this
2076 is one of the dark sides that we have seen. We have our
2077 friends at Common Sense Media, they cited a survey taken by
2078 Pew that 80 percent of parents do put their kids in front of
2079 YouTube for children's content, but 60 percent of them are
2080 like, I saw some things I didn't really like.

2081 And also the advertising. In the broadcast world that
2082 advertising is regulated with regards to how much advertising
2083 can occur during children's programing. I think this is
2084 definitely one of those what do we value in a healthy video

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2085 marketplace. This is a huge, huge issue, and we are
2086 concerned about it, and I am glad you raised it.

2087 *Mrs. Dingell. Thank you. I know we don't -- we got
2088 one minute and 30 seconds left.

2089 So Mr. LeGeyt, can you discuss broadcasters' commitment
2090 to providing high-quality educational programming to local
2091 communities?

2092 *Mr. LeGeyt. Absolutely. Thank you for the question,
2093 and it is great to see you.

2094 This is one of the core tenants of local broadcasting.
2095 Our commitment to families is, I think, what makes local
2096 broadcasting unique in this media landscape. You know, as a
2097 father of 3 children under the age of 11, I am proud of the
2098 fact that I can sit down on a Sunday morning or after school,
2099 and be very, very comfortable that the programming that my
2100 children are going to consume on broadcast television isn't
2101 something I am going to need to turn the channel on. And
2102 broadcasters very much, I think, serve as a strong
2103 alternative to all those diversions online that we are very
2104 concerned on.

2105 You know, the reforms to children's programming rules

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2106 that were referenced a moment ago, I think, have actually
2107 been very beneficial for my local station's ability to
2108 provide children with the programing in the form and at the
2109 times and in the length that they are going to be most likely
2110 to access it.

2111 I mean, our kids' viewing habits have changed. Asking a
2112 kid to sit down and watch a 30-minute program, that is not
2113 what my children are doing these days. And broadcasters have
2114 been able to provide children, thanks to those reforms -- and
2115 I appreciate your work on that -- that is going to meet them
2116 where they are.

2117 *Mrs. Dingell. Thank you. Children in the United
2118 States account for about 22 percent of our population, but
2119 they are 100 percent of our future. And this matters.

2120 Mr. Chairman, I yield back.

2121 *Mr. Latta. Thank you. The gentlelady yields back, and
2122 the chair now recognizes the gentleman from Georgia's 12th
2123 district for five minutes.

2124 *Mr. Allen. Well, thank you. Thank you, Mr. Chairman.
2125 Let me get over here to the mike. We need to raise these
2126 chairs in here a little bit.

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2127 [Laughter.]

2128 *Mr. Allen. Maybe update them, I will tell you. But
2129 thank you for holding this important hearing.

2130 And as mentioned, it has been a long time, three decades
2131 since we passed the Cable Act, which -- or last updated. And
2132 of course, the state of the video marketplace has changed
2133 drastically. And I have to admit I was a part of that. I
2134 was a guest in part of that deal where we didn't get to watch
2135 football. So I tried your one month free service, so -- and
2136 I got to deal with that later.

2137 [Laughter.]

2138 *Mr. Allen. But anyway, it was very frustrating. But I
2139 got it done. I was the hero of the group, let me tell you.

2140 But, you know, cable subscribers are really confused. I
2141 mean, it is like I said, all of a sudden -- and technology
2142 has become very frustrating. And, you know, you got Internet
2143 streaming services like Fubo, and you got more competition in
2144 the market. You got television broadcasters have great 21st
2145 century technology like the ATSC 3 TV, and -- that they are
2146 prepared to fully utilize.

2147 This is also a time of great disruption in this market,

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2148 and I think we have talked about that a great deal today.
2149 Obviously, the blackout is the subject, and how annoying that
2150 was right before college football season. And again, I like
2151 the information about the fact that it is sports that is
2152 controlling this.

2153 You know, this weekend, you know, many of my
2154 constituents were not able to watch some of their most
2155 popular football games. And, you know, I am sure our phones
2156 are burning up saying, hey, you got to fix this. And -- but
2157 throughout these market changes, public trust in our national
2158 media continues to plummet, to be honest with you. Nearly
2159 three quarters of U.S. adults say the news media is
2160 increasingly -- is increasing political polarization in this
2161 country, and just under half say they have little or no trust
2162 in the media's ability to report the news fairly and
2163 accurately.

2164 And on top of these stats, political ad spending for
2165 2024 is expected to shatter \$10 billion, more than 3 times
2166 what it was in 2016.

2167 Local journalism has never been more important with
2168 Americans' trust in that institution remaining strong. More

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2169 than twice as many Americans have higher emotional trust in
2170 local journalists than in the national news, and I experience
2171 that in my own district.

2172 As Congress reviews Federal regulations of the video
2173 marketplace, it is important that we look for ways to improve
2174 competition in the marketplace, remove redundant regulations,
2175 all while protecting local journalism.

2176 The question is for the entire panel. From your
2177 perspective, how would the video market change if Congress
2178 regulated all of it like traditional cable services are
2179 currently regulated?

2180 And we will just go from left to right here.

2181 *Mr. LeGeyt. I think this landscape is far too
2182 complicated to paint with a broad brush. And so what we have
2183 been advocating is for the FCC to take a refreshed look at
2184 all of this, to do what this committee is doing today, look
2185 at all these changes in viewer habits, and assess the impact
2186 on localism.

2187 There are some really important vestiges of the
2188 regulations that have governed the relationship, certainly
2189 between local broadcasters and cable and satellite systems.

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2190 Retransmission consent during the last 30 years has been
2191 critical to our reinvestment in local, but there is some
2192 regulations that are clearly outdated, the most significant
2193 of which is caps on our ability to gain the type of scale
2194 that allows us to better compete with YouTube and Facebook --

2195 *Mr. Allen. You all don't have a clock, but I only have
2196 40 seconds left, so we got to go real quick.

2197 *Mr. Spellmeyer. So I will go fast and say prices will
2198 go up and confused consumers will be even more confused and
2199 concerned.

2200 *Mr. Gandler. Well, I will have to agree. Prices will
2201 absolutely go up. Retrans will require you to negotiate the
2202 same sports deal twice, once with a national broadcaster and
2203 then again with the local affiliate. And all of those deals
2204 are specifically set up to expire right before football
2205 season.

2206 *Mr. Schwantes. And I will be quick. Yes, it will be
2207 higher prices for consumers and it will be more blackouts or
2208 impasses.

2209 *Mr. Allen. Well, consumers are not going to be happy
2210 about this.

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2211 Okay. With that I yield back.

2212 [Laughter.]

2213 *Mr. Latta. The gentleman yields back, and this time
2214 the chair recognizes the ranking member of the full committee
2215 for five minutes.

2216 *Mr. Pallone. Thank you, Mr. Chairman.

2217 It has been said already several times today that the
2218 public is consuming video more than ever, whether it is for
2219 news, sports, entertainment, or education. And in many ways,
2220 competition and choice means that there has never been a
2221 better time to be a consumer in this market.

2222 But in my opinion, consumers should be at the heart of
2223 these discussions, and any committee work should be focused
2224 on helping consumers in the marketplace. So let me ask Mr.
2225 Schwantes what types of practices in the video marketplace
2226 affect consumer satisfaction positively and negatively, and
2227 how do we make sure that these services are affordable for
2228 all consumers, including low-income consumers, if you will?

2229 *Mr. Schwantes. Thank you, Congressman. I will be
2230 quick. I will give you the good, the bad, and the ugly.

2231 The good is there is more content than ever before. I

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2232 think, if you count both linear and streaming, the number of
2233 titles available for consumers to watch is 2.7 million
2234 different programs, and that is up like a million in just the
2235 last couple of years. So that is mind boggling.

2236 And also just the kind of choice. You can -- there is
2237 all different kinds of streaming platforms that -- and have
2238 different packages of content that is not like the
2239 traditional cable bundle. So that is the good.

2240 The bad, we touched on it. It is junk fees in the cable
2241 TV market, and that is in large part due to rising costs for
2242 broadcast television. And unfortunately, those fees are not
2243 included in the advertised price. And so, you know, that \$25
2244 broadcast TV fee, that comes -- that is the gotcha moment
2245 when -- on your first month's bill.

2246 What else? I will say the ugly are blackouts. I think
2247 we have spent a lot of oxygen on that today, so I will pass
2248 over that.

2249 And then, just in general, is broadband. We have to --
2250 none of this works without broadband, and we have to make
2251 sure it is affordable in this country. And that is why, you
2252 know, the Affordable Connectivity Program is getting more

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2253 low-income consumers online. But also in the streaming
2254 world, yes, some things are more expensive than others, but
2255 there are ad supported apps that are absolutely free. And
2256 Consumer Reports does -- we review this every year, and we
2257 recommend a lot of consumers to look at that.

2258 And I would be remiss to mention -- and I do agree with
2259 Curtis -- free -- we routinely recommend to consumers the
2260 bunny ears are antiquated. There are digital antennas that
2261 would look nothing like what I grew up with. And if you are
2262 close to an urban area, you may indeed be getting high-
2263 quality television over the air for free.

2264 *Mr. Pallone. Well, let me ask you something else. Let
2265 me mention -- you know, I certainly am a big advocate for
2266 local journalism. I am sure that is true for, you know, all
2267 members of the House of Representatives because we want, you
2268 know, local journalism. And that, you know, I think provides
2269 our best local -- well, it is the broadcast stations, really,
2270 that are providing most of the local or the best local
2271 journalism.

2272 I worry that online platforms and social media spread a
2273 lot of misinformation, disinformation. But you have the

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2274 public interest obligations required of broadcasters to
2275 promote localism, competition, and diversity, and I think
2276 that explains why today we trust -- or at least I do -- trust
2277 our broadcasters more than the unregulated social media
2278 companies.

2279 So, Mr. Schwantes, do you agree that the public interest
2280 standard we have for broadcasters is part of the reason why
2281 broadcasters remain among the most trusted news sources in
2282 this country?

2283 *Mr. Schwantes. I do, Congressman, absolutely. They
2284 have an obligation going all the way back to the 1934
2285 Communications Act to serve their local communities. And
2286 part of that is a trust, and it is a standard of journalism
2287 that we support. And it is complicated when you talk about
2288 the online world, but that is a good place to start.

2289 *Mr. Pallone. Well, thanks.

2290 And Mr. LeGeyt, do you have -- do you want to add
2291 anything to that?

2292 *Mr. LeGeyt. Thank you for the question and
2293 acknowledging those obligations. Those public interest
2294 obligations are at the core of who we are as local

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2295 broadcasters.

2296 You know, Ranking Member Matsui early in the hearing
2297 raised the point of digital equity. There is no more
2298 equitable platform than local broadcasters. We are freely
2299 available to consumers of all socioeconomic stripes. So our
2300 ability to deliver trusted information, the most local,
2301 combined with our network's investment in must-watch
2302 entertainment, must-watch sports, it is the most incredible
2303 value proposition for consumers.

2304 In this landscape we can talk a lot about the regulatory
2305 regime, but we shouldn't lose sight of the fact that we are
2306 doing in local communities what no one else is doing right
2307 now.

2308 *Mr. Pallone. Thank you.

2309 Mr. Chairman, I had one more question but I think it
2310 will lead to an extra two minutes or so, so I will yield
2311 back.

2312 *Mr. Latta. Well, thank you very much. I just want to
2313 say that before we figured out that we had a problem with the
2314 witnesses not having lights, the chair did go over. So if
2315 you would like to ask another question --

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2316 *Mr. Pallone. All right, I will do it.

2317 [Laughter.]

2318 *Mr. Pallone. This is Mr. Gandler. In your testimony
2319 you say that streaming companies can be more consumer-
2320 centric, and your company prides itself on price
2321 transparency, contract-free service, and no junk fees.
2322 However, some say that the current marketplace is
2323 unsustainable.

2324 Earlier this year we saw Fubo -- is that it?

2325 *Mr. Gandler. Mm-hmm.

2326 *Mr. Pallone. Fubo imposed a regional sports network
2327 fee to cover costs associated with providing local sports
2328 coverage. So my question is, where do you think this is
2329 trending? Is the current business model sustainable, or do
2330 you think that over time streaming services will start to
2331 look more like some of the more traditional options?

2332 *Mr. Gandler. Yes, thank you for your question.

2333 Well, first of all, we offer a free trial, so people can
2334 test the service and ensure that they enjoy the content that
2335 they are receiving.

2336 Moreover, we offer reminders to customers before their

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2337 trial period is over, reminding them that, you know, they are
2338 going to go into a paid service momentarily.

2339 And last but not least, we highlight the regional sports
2340 fee prominently in the flow once we understand what geography
2341 you are in, because there is an overlap of different RSNs.
2342 Some cities, as you know, may have, you know, seven, eight,
2343 nine teams. Madison Square Garden Network, for instance, has
2344 five hockey teams. So once we understand, you know, at the
2345 checkout flow where you are, we again prominently provide
2346 that.

2347 I think the market is very strong. You have lots of
2348 different services that are available at different price
2349 points, all the way from free to, you know, 80, 90, \$100 or
2350 more. People can consume content, they can readily switch
2351 services. There is no friction. So there is a lot of value
2352 in what people provide.

2353 What I will say, most importantly, is that the bundle is
2354 still king. The average Fubo customer watches over 100 hours
2355 of programming per month. People like to have all of their
2356 content in one place. Thank you.

2357 *Mr. Pallone. Thank you.

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2358 Thank you, Mr. Chairman.

2359 *Mr. Latta. Well, thank you very much. The gentleman
2360 yields back, and the chair now recognizes the gentleman from
2361 Ohio's 12th district for five minutes.

2362 *Mr. Balderson. Thank you, Mr. Chairman.

2363 Mr. Gandler, I don't have a question for you, but it is
2364 funny. Mr. Allen and I were just talking Fubo. I -- no
2365 disrespect, sir, but I live in the hills of southeastern
2366 Ohio, and I actually got an email from my Charter Spectrum on
2367 Saturday that says, "Hey, get a hold of Fubo and do a free
2368 trial," so thank you for -- Spectrum is out there helping
2369 you.

2370 [Laughter.]

2371 *Mr. Balderson. And he just tried to get off.

2372 *Mr. Allen. I did the same thing.

2373 [Laughter.]

2374 *Mr. Balderson. All right Mr. Spellmeyer, thank you for
2375 being here, too.

2376 And several live TV streaming services known as vMVPDs
2377 have begun offering skinny bundles that provide their
2378 customers with a small bundle of live TV options, offering

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2379 more consumer choice. Obviously, we would like everyone to
2380 be able to compete in this marketplace, but in this respect
2381 -- and as Mr. Gandler mentioned in his testimony -- these new
2382 services can offer more choices to consumers, and the data
2383 shows that consumers are taking advantage of this
2384 flexibility.

2385 Can you explain why some traditional TV providers do not
2386 offer this service to their consumers?

2387 And what can be done to provide more consumer choice and
2388 promote competition in the industry?

2389 *Mr. Spellmeyer. Yes, as I have discussed at several
2390 points in this hearing that really goes to that issue of
2391 consumer choice, and I will call it a la carte, or skinny
2392 bundles, or small packages. My members have pushed very hard
2393 against the programmers to try to get that over a period of
2394 time of a decade. And the content providers won't let us do
2395 it.

2396 I have talked about market power. My guys are small,
2397 they are rural, they serve a county or two. The programmers
2398 just look at them and say, "Nope, not going to let you do
2399 that.'`

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2400 Now, YouTube TV has had some success in breaking that
2401 model, in part because they are Google, and Google has got a
2402 lot more market power than Boycom Cable does in Poplar Bluff,
2403 Missouri. It is -- or the numerous providers that we have as
2404 members in Ohio, we just -- we don't have the power to break
2405 it. And it is good for consumers. And we have talked about
2406 that extensively. We should try to do it.

2407 *Mr. Balderson. Thank you.

2408 Mr. LeGeyt, thank you for being here. The Columbus
2409 media market, which serves a large portion of my
2410 congressional district that I represent, has five local
2411 broadcasters that are broadcasting their content on HD
2412 channels and ATSC 3.0, also known as NextGen TV. In your
2413 testimony you touch on NextGen TV and the new opportunities
2414 and benefits that it provides for both TV stations and
2415 consumers. Can you discuss the viewer benefits, and give an
2416 update on where mitigation to NextGen TV stands?

2417 *Mr. LeGeyt. Absolutely, Congressman, thank you for the
2418 question.

2419 We are tremendously proud of this rollout that is going
2420 on across the country of next generation television. This is

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2421 an upgraded, over-the-air standard that will allow viewers to
2422 access, for free, a 4K picture, immersive audio, more
2423 interactive programming, hyper-localized weather, and news.
2424 You know, make no mistake, as we are talking about the future
2425 of sports rights, as we are talking about the service we
2426 provide to our communities, our ability to provide that type
2427 of viewer experience is table stakes to ensuring that we can
2428 maintain our audience versus the Apple TVs and the Amazons of
2429 the world.

2430 Right now we are deployed in 70 markets, 65 percent of
2431 the country can access some sort of NextGen television. But
2432 we are in the midst of this transition. It is tough because,
2433 as opposed to an AT&T or Verizon who can just upgrade to a
2434 5G, we need the entire industry rowing in the same direction.
2435 We need the consumer electronics industry on board, we need
2436 the consumer groups on board.

2437 So we are very supportive of the FCC's recent launch and
2438 partnership with the NAB of a future of television initiative
2439 that is enabling that transition and, really, I think, sets a
2440 framework to get this transition from where it is today to
2441 completion nationwide so that every consumer can access these

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2442 benefits.

2443 *Mr. Balderson. Okay. Thank you very much. My last
2444 question is for Mr. Gandler again.

2445 Well, not again, but the 2014 FCC notice of proposed
2446 rulemaking regarding the vMVPDs has been frequently discussed
2447 leading up to this hearing. You mentioned in your testimony
2448 that if these rules were adopted the cost of FuboTV and
2449 similar services would increase, ultimately being passed on
2450 to the consumer. I have heard similar concerns from across
2451 the industry.

2452 Could you tell me why being regulated as an MVPD would
2453 increase cost, and how significant that would -- increase
2454 would be for your business and consumers?

2455 And I am going to stop you because I am out of time, but
2456 if you could submit that answer --

2457 *Mr. Gandler. Absolutely.

2458 *Mr. Balderson. -- that would be great. We will get
2459 that to you. Thank you.

2460 [The information follows:]

2461

2462 *****COMMITTEE INSERT*****

2463

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2464 *Mr. Balderson. Thank you, Mr. Chairman.

2465 *Mr. Latta. Thank you very much. The gentleman's time
2466 has expired, and the chair now recognizes the gentlelady from
2467 New York for five minutes.

2468 *Ms. Clarke. Thank you very much, Mr. Chairman, and I
2469 thank our Ranking Member Matsui for holding this hearing, as
2470 well as our panel of esteemed witnesses for joining us today
2471 to discuss and examine the ever-changing industry.

2472 Television was once an industry comprised of just a few
2473 local broadcast networks delivering a limited number of
2474 linear television channels to local consumers over the air at
2475 no cost, and has morphed into the multi-billion-dollar video
2476 marketplace of today, comprised of broadcast networks, cable,
2477 satellite providers, and online video distributors offering
2478 both linear and non-linear programming through a variety of
2479 platforms beyond a traditional television set.

2480 Unfortunately, too many of these platforms are owned or
2481 controlled by a handful of multinational corporations with
2482 complex, often competing financial interests, driving
2483 corporate decision-making with the ability to impact millions
2484 of consumers.

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2485 While the corporate interests, technological advances,
2486 and policy choices that led to the current state of affairs
2487 have undoubtedly unleashed unprecedented consumer choice for
2488 video content consumption, there remains much work to be done
2489 by both policymakers and the private sector to ensure the
2490 long-term viability of the sector. And while competition and
2491 consumer choice will rightly be a major topic of conversation
2492 today, I want to focus on the importance of diverse and
2493 independent voices within the video marketplace and media
2494 ecosystem more broadly.

2495 Diversity in media is -- goes beyond mere
2496 representation. It is about including voices from different
2497 racial, ethnic, gender, socioeconomic, and cultural
2498 backgrounds, and reflecting the tapestry of experiences and
2499 perspectives found across our nation.

2500 Moreover, a diverse media landscape can create economic
2501 opportunity for the historically marginalized communities,
2502 and it is essential for a healthy democracy by ensuring
2503 citizens can make informed decisions on critical issues.

2504 Given our nation's unfortunate history of discrimination
2505 and withholding of opportunities of marginalized communities,

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2506 we must take care to not entrench the inequities of today
2507 when crafting policies that spur the innovations of tomorrow.
2508 We all must continue to support policies that encourage
2509 diversity in media, and I look forward to introducing
2510 legislation in the coming weeks to do just that.

2511 My first question is directed to Mr. LeGeyt.

2512 Thank you for joining us today. I understand the
2513 difficult position broadcasters are forced into as tech firms
2514 and larger conglomerates use streaming services as loss
2515 leaders to compete for market share. The important role
2516 broadcasters play as trusted sources for local news on a
2517 daily basis and in providing communities like mine with a
2518 crucial lifeline during times of emergency cannot be
2519 overstated, and I thank you.

2520 So, Mr. LeGeyt, how might the suggested FCC reforms you
2521 mentioned in your prepared testimony impact diversity in
2522 media in terms of both content and ownership?

2523 And what would you say are the biggest obstacles to
2524 increasing diversity across the media landscape?

2525 *Mr. LeGeyt. Thank you for the question, Congresswoman.

2526 Diversity in media is top of mind for all of us at the

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2527 NAB and across the industry. I mean, we are advocating for
2528 reinstatement of the FCC's tax certificate program to
2529 incentivize sales to diverse broadcast owners. We run a
2530 broadcast leadership training program out of our foundation
2531 that ensures that the leadership in our industry better
2532 reflects the diversity of the communities that we serve. And
2533 we are hyper-focused on producing toolkits for our
2534 journalists across the country to ensure that the reporting
2535 on racially sensitive issues matches the needs of the
2536 community.

2537 But none of this will impact what is on the screen, what
2538 is reaching living rooms across the country, if the broadcast
2539 industry isn't one that would-be investors, including diverse
2540 investors, are willing to come into.

2541 And so we need to ensure that we can gain the scale to
2542 compete with the YouTubes and the Facebooks of the world.
2543 Local broadcasters are subject to ownership restrictions that
2544 no one else in the media landscape is subject to. That
2545 chills investment. There is uncertainty as to how broadcast
2546 transactions will be reviewed at the FCC, what the timeline
2547 will look like, whether they will receive an up or down vote.

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2548 That chills potential investment. So all of these are areas
2549 of focus for this committee to ensure greater diversity in
2550 broadcasting.

2551 *Ms. Clarke. Very well. I have four seconds, so if you
2552 gentleman would send -- submit to me some of your thoughts in
2553 writing, that would be extremely helpful.

2554 [The information follows:]

2555

2556 *****COMMITTEE INSERT*****

2557

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2558 *Ms. Clarke. With that, Mr. Chairman, I yield back.

2559 *Mr. Latta. Thank you very much. The gentlelady yields
2560 back, and the chair now recognizes the gentlelady from
2561 Tennessee for five minutes.

2562 *Mrs. Harshbarger. Thank you, Mr. Chairman. I thank
2563 the witnesses for being here today. And really, I don't know
2564 that I have a question, I just want to go over some of the
2565 notes that I have and you tell me if I am wrong. Okay?

2566 And yes, I do have Spectrum, and I couldn't watch the
2567 ball games. And I don't know how Rick -- how he got Fubo for
2568 a month and mine said a week.

2569 [Laughter.]

2570 *Mr. Allen. Mine said a week.

2571 *Mrs. Harshbarger. Okay, Rick. You better check your
2572 cable bill.

2573 [Laughter.]

2574 *Mr. Allen. I haven't gotten a notice. That was
2575 several days ago, and I --

2576 *Mrs. Harshbarger. Well, I didn't sign up. I am just
2577 saying. I went to my son's and watched YouTube TV.

2578 Anyway, okay, well, let me see if I got all this right,

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2579 so we can regulate or deregulate, okay?

2580 We have got decades-old regulations and it stifles
2581 traditional TV providers. And streaming platforms, it looks
2582 like, are able to flourish in a deregulated markets.

2583 So Mr. Spellmeyer, you said that retransmission fees are
2584 basically under a gag order, and I call it that because we
2585 don't know what they are charging.

2586 Mr. LeGeyt, you said we need to reinvest in local
2587 programing, basically.

2588 And you all said we need an a la carte system and a
2589 service from content providers who won't allow us to have
2590 that right now, which -- I would love to have that.

2591 You all said that sports rights cost a whole lot of
2592 money, and it is putting pressure on these program providers
2593 due to the real-time viewing and advertising.

2594 And Mr. LeGeyt, you said FCC needs to examine
2595 retransmission consent as the number of customers go to
2596 streaming.

2597 We need antitrust and oversight.

2598 And Mr. Schwantes, I do have a subscription to Consumer
2599 Reports, too, just FYI. You don't support applying the Cable

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2600 Act to streaming, and you would prefer less regulation.

2601 So I guess the bottom line is we need price transparency
2602 and more freedom of choice. Am I correct?

2603 Anybody can answer. You all four need to answer.

2604 *Mr. LeGeyt. Yes.

2605 *Mrs. Harshbarger. Yes? Okay. Well --

2606 *Mr. LeGeyt. Yes, you were paying careful attention.

2607 [Laughter.]

2608 *Mrs. Harshbarger. Oh, I am a pharmacist. I have to
2609 have the details correct or I could kill somebody.

2610 [Laughter.]

2611 *Mrs. Harshbarger. So just like that month versus a
2612 week.

2613 So, I mean, look, I look at --

2614 *Mr. Allen. I am going to look that up.

2615 *Mrs. Harshbarger. Okay. I will look at what we do
2616 with -- LeGeyt, what you do. I mean, it is a national
2617 security issue when it comes to, like, the fires in Maui. We
2618 have to have the AM radio. We have to have an infrastructure
2619 that will support all that. I will live in a rural area,
2620 where broadband is imperative to getting streaming. And, you

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2621 know, I look at what they are wanting to do with the vehicles
2622 now, and you only have streaming. The people I serve, they
2623 drive gasoline cars and they listened to AM radio. So we
2624 have to have that as an option, and choices. And you know,
2625 competition makes everything better, and it makes everybody
2626 better.

2627 So did I get anything wrong?

2628 I hope your answer is no.

2629 *Mr. Gandler. No.

2630 *Mrs. Harshbarger. Okay, good.

2631 [Laughter.]

2632 *Mrs. Harshbarger. I will continue my subscription with
2633 Consumer Reports.

2634 [Laughter.]

2635 *Mr. Schwantes. Yes, please. And please -- and thank
2636 you for being a subscriber to Consumer Reports.

2637 No, the issue on the cable bundle -- and maybe I can
2638 answer, since I am not a cable company and I am not a content
2639 provider -- for many, many years, the cable bundle -- and
2640 let's go back to the 1990s or even 20 years ago -- all of
2641 those large -- I mean, first of all, all those channels that

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2642 we know?

2643 *Mrs. Harshbarger. Yes.

2644 *Mr. Schwantes. There aren't many independent channels
2645 out there. So Disney owns, I don't know off the top of my
2646 head, 10, 20 channels.

2647 *Mrs. Harshbarger. Why couldn't I get Nat Geo on there?
2648 They wouldn't allow that back on the network.

2649 *Mr. Schwantes. Yes, because that was part of the deal
2650 that they got with Charter. So it is sort of like, what do
2651 we like and what -- you know, what are we willing to
2652 sacrifice? And so that we would have to ask the CEO of
2653 Charter.

2654 But a lot of the big must-have programing, whether it is
2655 the local channels -- and, I mean, the local channels are
2656 gold for local broadcasting and live sports. They -- it is
2657 expensive to cut deals with the major sports leagues, and
2658 that is driving a lot of costs for retrans all across the
2659 industry. But all of those big fees paid to ESPN subsidized
2660 Nat Geo and these smaller channels.

2661 And the fear -- and I am not smart enough to figure it
2662 out, but if you just had them a la carte, do those channels

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2663 survive? Because --

2664 *Mrs. Harshbarger. Yes.

2665 *Mr. Schwantes. Let's just say 50 million people want
2666 ESPN, but 500,000 want Nat Geo Wild. Like, they are --

2667 *Mrs. Harshbarger. Yes.

2668 *Mr. Schwantes. -- really, really fun one.

2669 *Mrs. Harshbarger. That is the one I want.

2670 *Mr. Schwantes. But that can't sustain it if, like, if
2671 you tell Nat Geo Wild, you tell Nat Geo like, "Well, you can
2672 only survive on what you get from subscribers.'"`

2673 *Mrs. Harshbarger. Yes.

2674 *Mr. Schwantes. And they will be, like, maybe it was
2675 the thing that no one wanted to talk about, the cross-
2676 subsidization.

2677 *Mrs. Harshbarger. Yes. Okay. Okay, I am out of time
2678 now. Well, I will talk to you guys later offline.

2679 I yield back, Mr. Chairman.

2680 *Mr. Latta. Thank you. The gentlelady's time has
2681 expired, and the chair now recognizes the gentlelady from New
2682 Hampshire for five minutes.

2683 *Ms. Kuster. Thank you very much. Thank you, Mr.

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2684 Chairman. I want to thank the committee for this important
2685 hearing.

2686 This discussion is timely, as many households in my
2687 district in northern New Hampshire are currently experiencing
2688 the consequences of a breakdown in the TV marketplace. Over
2689 this past week I have heard directly from constituents who
2690 can no longer access Channel 9 News due to a blackout of the
2691 local broadcasting station WMUR on their cable TV provider.
2692 Granite Staters rely on WMUR to get their daily weather and
2693 traffic updates, emergency alerts, and to stay up to date on
2694 what is happening in their community and across this country.

2695 Let me be clear. This blackout is the result of a
2696 business contract dispute, but it is the consumer who gets
2697 caught in the middle and pays the price.

2698 Mr. Schwantes, you stated that blackouts have been on
2699 the rise in recent years. Would you consider these blackouts
2700 a sign that the current structure of the video marketplace is
2701 no longer serving these customers?

2702 *Mr. Schwantes. Certainly it is one of the things that
2703 we point out as being very disturbing and anti-consumer, and
2704 I would say one of the worst things in the current

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2705 marketplace that we need to address.

2706 There are some novel ideas out there, but -- and again,
2707 there is no silver bullet here, but even if you had sort of a
2708 60-day cooling off mediation period for the thorniest
2709 disputes, so you do not have the channels -- because it is
2710 tough, it cuts both ways. I mean, think about Disney. Were
2711 they really willing to let to \$2.2 billion sit on the table?
2712 How long can they sustain that when they are trying to make
2713 Disney+ profitable?

2714 So both sides have a lot to gain, both sides have a lot
2715 to lose. For us at Consumer Reports, it is easy. Consumers
2716 end up getting the short end of the stick in either scenario.

2717 *Ms. Kuster. Yes.

2718 *Mr. Schwantes. Because if, ultimately, when they do
2719 cut a deal and those prices go up, consumers pay it.

2720 *Ms. Kuster. And it is dangerous. I mean, we have
2721 extreme weather events in my district. And if people can't
2722 get the information -- so I think we can agree it is a lose-
2723 lose-lose with the blackout. They are bad for local
2724 broadcasters, bad for cable providers, but mostly they hurt
2725 consumers who lose access to a local news station and the

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2726 programing they rely upon.

2727 Mr. LeGeyt, as you know, local broadcasting stations
2728 provide trusted reporting for communities around the country,
2729 including in my district. But the current marketplace has
2730 put their future in jeopardy as costs are on the rise and
2731 consumers have moved to non-traditional video platforms, I
2732 will have to say, including in our household, in terms of
2733 following every last game of the U.S. Open.

2734 How do we ensure that local broadcasting can continue to
2735 operate now and into the future?

2736 *Mr. LeGeyt. Thank you for the question, Congresswoman.
2737 Local broadcasting relies on two revenue streams:
2738 advertising -- and that market has been completely overrun
2739 with the market power of Google and Facebook and the digital
2740 platforms -- and retransmission consent, which allows local
2741 stations to reinvest in local news, local programing.

2742 Some criticisms have been raised today on the current
2743 system that has governed broadcasters relationship between --
2744 with the cable and satellite companies for the last 30 years.
2745 But it has unquestionably resulted in a system -- we are in
2746 210 unique markets around the country. Individual local

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2747 broadcast stations can invest in local news, local
2748 programing, and aren't just running national feeds. And it
2749 is a real testament to our legal regime that we have
2750 something no other country has in that regard.

2751 With regard to -- so as we look at streaming, and
2752 audiences cutting the cord and moving to some of these cable
2753 replacement services online, I think it is imperative that
2754 the expert agency, the FCC, looks at the impact that that is
2755 going to have on localism, and whether there are elements of
2756 the regime that governs cable and satellite that ought to be
2757 considered or something new. I think we have all concluded
2758 here this is complicated.

2759 I do want to also say with regard to the retransmission
2760 consent impasse that you raised with WMUR, we understand how
2761 important that station is to your local constituents. The
2762 station is still freely available over the air, and will
2763 continue to be.

2764 But it is important to hone in a little bit here that we
2765 talk about these impasses as an industry-wide problem. Over
2766 the last five years, two companies, one of which is relevant
2767 here, Dish and DirecTV, have been responsible for nearly 90

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2768 percent of the impasses nationwide in retransmission consent
2769 negotiations. So let's call this what it is, which is a
2770 problem with two companies.

2771 *Ms. Kuster. So I should probably add -- and certainly
2772 for the benefit of my Republican colleagues -- this is for
2773 our country, as well, with the first-in-the-nation primary.

2774 But my time is up, and I will yield back. Thank you.

2775 *Mr. Latta. Thank you very much. The gentlelady's time
2776 has expired, and the chair now recognizes the gentleman from
2777 Idaho for five minutes.

2778 *Mr. Fulcher. Thank you, Mr. Chairman.

2779 Mr. LeGeyt, local broadcasters, as we have discussed,
2780 face certain regulatory restrictions, and you have touched on
2781 some of that: how many stations on a single company can own,
2782 what type of programing must be aired, how often, types of
2783 programing that are allowed, not allowed because you operate
2784 on the public airwaves. You are king for a day. Just very
2785 quickly, in your -- can you speak to some of those specific
2786 rules? Which ones are the most outdated? What can be
2787 reformed and eliminated?

2788 And just if you were king for a day, quickly, give me a

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2789 summary.

2790 *Mr. LeGeyt. The media ownership restrictions that
2791 local broadcasters operate under are vestiges of a bygone
2792 era. You know, the notion that a broadcaster only competes
2793 with other broadcasters for viewership and for advertising,
2794 which these rules are premised on, is clearly, as we have
2795 discussed today, not the modern media landscape. That is not
2796 to say that every local broadcaster would suddenly go and
2797 expand its footprint, but broadcasters need the flexibility
2798 to invest in that scale in order to compete with Google and
2799 Facebook.

2800 Similarly, the rules of the road that have applied to
2801 local broadcasters' relationship with cable and satellite
2802 companies for the last 30 years have unquestionably resulted
2803 in investment in local news, local entertainment that is
2804 unique to 210 different markets in the country. The FCC
2805 needs to take a look as the expert agency on how to ensure
2806 that same investment in localism as streaming proliferates.

2807 *Mr. Fulcher. Okay, Mr. Spellmeyer, your comments on
2808 that, please.

2809 *Mr. Spellmeyer. I was going to try to interject myself

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2810 to say that, you know, just to steal from Hollywood, you are
2811 going to need a bigger boat in order to fix this problem.
2812 You cannot expect that the customers who subscribe to local
2813 cable programing are going to continue to be able to entirely
2814 support local broadcasting.

2815 Curtis talked about how he has lost the advertising side
2816 and, you know, what he has got left is the retrans side. And
2817 the cable industry may not be around long enough to continue
2818 to fund that. So it is a long-term challenge.

2819 *Mr. Fulcher. Okay, so let me just ask you a little bit
2820 more specific question. What if we just eliminated
2821 regulations, we just eliminated them around rates charged and
2822 services provided to consumers. Would that make cable more
2823 competitive?

2824 *Mr. Spellmeyer. It would make cable more competitive,
2825 and I would be supportive of that as the better solution than
2826 continuing the way we are. There may be other solutions in
2827 between, but yes.

2828 *Mr. Fulcher. Okay. All right, thank you. I am going
2829 to shift gears.

2830 Mr. Gandler, some of the advantages and disadvantages

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2831 with allowing small MVPDs, those with fewer than 500,000
2832 subscribers, what about buying groups? What about being able
2833 to leverage those small organizations with a buying group?
2834 Would that help in terms of negotiation?

2835 I would like to get your thoughts and comments of that.

2836 *Mr. Gandler. Yes, that is something I am also looking
2837 for.

2838 We are a very unique company. We are small, relatively
2839 small. This year we will be at about 1.2 to 3 million -- 1.2
2840 to 1.3 million customers in North America. And you know, we
2841 can't join the NCTC because it is facilities-based. So there
2842 is no place for us to join. And this is a company that has
2843 grown up in a very complicated marketplace, with programmers
2844 and broadcasters who are, you know, looking to take advantage
2845 of our size.

2846 So that would be very helpful. You know, perhaps maybe
2847 having the opportunity to join on the cable side might make
2848 sense.

2849 *Mr. Fulcher. I have got about 40 seconds left, but
2850 there is another related question, because I was just looking
2851 from your written testimony.

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2852 You expressed concern with FCC and other rules that
2853 would have online video providers and streaming platforms to
2854 negotiate with broadcasters over content that broadcasters
2855 don't own. I didn't fully understand your thoughts.

2856 *Mr. Gandler. Yes --

2857 *Mr. Fulcher. Can you unpack that --

2858 *Mr. Gandler. Yes, please.

2859 *Mr. Fulcher. -- in about 20 seconds?

2860 *Mr. Gandler. I think this is probably the most
2861 important point at this hearing, is the fact that it sounds
2862 like what has been conflated today is local sports and local
2863 broadcast.

2864 The reality is there are four broadcasters who own
2865 basically college football, pro football, the Olympics, the
2866 World Series, and programming that really matters, must-have
2867 programming. And the problem with retrans is we are already
2868 negotiating these expensive rates. Having to then have to
2869 negotiate retrans rates will effectively increase the price
2870 that much more.

2871 *Mr. Fulcher. Thank you. Thank you to the panel.

2872 *Mr. Gandler. Thank you.

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2873 *Mr. Fulcher. Mr. Chairman, I am out of time. I yield
2874 back.

2875 *Mr. Latta. Thank you. The gentleman's time has
2876 expired, and the chair now recognizes the gentlelady from
2877 Illinois's second district for five minutes.

2878 *Ms. Kelly. Thank you, Chair Latta and Ranking Member
2879 Matsui, for holding this afternoon's hearing. It is
2880 important that this subcommittee address how the video
2881 marketplace has changed, and the impact on its consumers.

2882 With this changing landscape, consumers deserve to have
2883 a choice, and to me that means access to their local stations
2884 as well as popular cable networks, and that is why I am
2885 disheartened, like my colleague was, by the ongoing blackout
2886 in areas that I represent in Chicago, where local TV stations
2887 like WGN went dark on DirectTV's platform.

2888 And as you have heard, Chicago is not alone. Such
2889 blackouts have been increasingly common and are impacting
2890 more consumers. So I join many of my constituents in hoping
2891 a resolution can be reached to ensure my constituents can
2892 continue to view their favorite network programming, live
2893 sporting events, local news, and other local content relevant

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2894 to them.

2895 However, to ensure consumers have access to content
2896 relevant to their daily lives, it is essential that entities
2897 within the video ecosystem maintain diverse and inclusive
2898 coverage to provide better representation of the communities
2899 they serve, and to continue building audience interests.

2900 Mr. LeGeyt, I was encouraged to see on NAB's website
2901 your organization's commitment to diversity, equity, and
2902 inclusion in broadcasting. What type of initiatives have you
2903 supported that improve diversity in broadcasting and create
2904 new opportunities for women, for people of color, and other
2905 represented communities?

2906 And you might comment on your leadership training
2907 program, also.

2908 *Mr. LeGeyt. Thank you so much for the question and the
2909 acknowledgment, because our work in this space in partnership
2910 with our industry is arguably the element of our association
2911 that I am most proud of.

2912 You know, our broadcast leadership training program,
2913 which is really the gold standard amongst a litany of
2914 training programs that we provide on the sales side, on the

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2915 engineering side, early on in careers, as well as advancing
2916 up through middle management, our broadcast leadership
2917 training program is really meant to hone in on the next
2918 generation of leaders in the broadcast industry, and giving
2919 them exposure through a year-long executive MBA-style program
2920 to the elements of the business that they might not otherwise
2921 have awareness of.

2922 So if you have been a very, very successful salesperson,
2923 you are going to get exposed in this program to the financial
2924 side of the business, the programing side of the business.
2925 It is focused on ensuring that especially diverse leaders in
2926 the industry who have high potential get that training, get
2927 that business experience, and can rise to the top of their
2928 companies. And it has been tremendously successful.

2929 It also equips those interested in getting into station
2930 ownership with training on how to do that on the financial
2931 side. So it is a program that we are very, very proud of.
2932 It is now more than 20 years in existence and growing every
2933 year.

2934 *Ms. Kelly. Do you know how many have gone on to own
2935 their own stations by any chance?

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2936 *Mr. LeGeyt. I can provide you with that data. I can
2937 tell you that it is a substantial number that either have
2938 gone on to own their own stations or have advanced to the
2939 C-suite within their companies.

2940 *Ms. Kelly. And can you speak a little bit about the
2941 barriers when it comes to access to capital? Because that
2942 still seems like a problem.

2943 *Mr. LeGeyt. It is a huge problem. And, you know, just
2944 to step back for a moment, you know, the broadcast industry
2945 is one right now that is undergoing a lot of transition for
2946 all the reasons that we have talked about today. There is a
2947 lot of uncertainty as to what investment in the broadcast
2948 space will look like in terms of an FCC review. There is a
2949 lot of questions about broadcast viability in this space that
2950 is increasingly dominated by Big Tech in light of the
2951 constraints on any station group's ability to gain necessary
2952 size and scale.

2953 All of that is chilling some investment, and so, as it
2954 relates to access to capital, has lenders asking questions as
2955 to what this industry looks like 10, 20 years down the line,
2956 as well as the fact that the FCC license itself is not

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2957 considered an asset and collateral in a transaction. So what
2958 we have tried to do is educate would-be lenders, especially
2959 in small markets, as to the value of this industry and why it
2960 is a worthwhile investment.

2961 *Ms. Kelly. Do you think the tax certificate program
2962 should be reinstated?

2963 *Mr. LeGeyt. I --

2964 *Ms. Kelly. Just tell me --

2965 *Mr. LeGeyt. Yes.

2966 *Ms. Kelly. And I am going to go real quick for all of
2967 you. Do you think it is time for Congress, this committee,
2968 to look at modernizing the rules of the road?

2969 You can just say yes or no, because I don't have --

2970 *Mr. LeGeyt. Yes.

2971 *Mr. Spellmeyer. The rules of the road for the video
2972 marketplace? Yes.

2973 *Mr. Gandler. No.

2974 *Mr. Schwantes. Yes, it is time to modernize.

2975 *Ms. Kelly. I can't ask you why you said no, but I
2976 yield back.

2977 [Laughter.]

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2978 *Ms. Kelly. Thank you.

2979 *Mr. Latta. The gentlelady's time has expired, and the
2980 chair now recognizes the gentleman from Texas's 11th district
2981 for five minutes.

2982 *Mr. Pfluger. I thank you, Mr. Chairman. Thank you all
2983 for being here.

2984 As a consumer, it is interesting. All of these topics
2985 are very, you know, relevant and timely for decisions that my
2986 own family is making. So I certainly see the value of making
2987 sure in the role of government to set the appropriate
2988 conditions and, you know, let the competition be what it is,
2989 but to have, you know, a positive impact on our society.

2990 So I know a lot of these topics have been broached, but
2991 I will just start with Mr. Spellmeyer. You know, looking at
2992 the average amount of TV that an adult watches, and the --
2993 and then narrowing into the channels, I mean, I think it is
2994 -- you know, most people, if you are like me, probably have
2995 somewhere -- 100 to 200 channels, but you are only watching
2996 10 percent of those. And so, you know, you are basically
2997 paying for things that that aren't watched.

2998 Okay, there has been suggestions about kind of an a la

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2999 carte option for cable. But have your members considered
3000 offering additional options? You know, what -- how do you
3001 view that problem setting?

3002 *Mr. Spellmeyer. Oh, my members talk to me about it
3003 every day.

3004 As I have indicated, the little secret that consumers
3005 don't understand is that the content providers won't let the
3006 cable companies offer small packages. They force you to take
3007 the whole suite of programming offered by a particular Disney,
3008 or Discovery, or whoever it may be, and that really hampers
3009 our ability to meet consumers' needs, and we would like to
3010 fix that.

3011 *Mr. Pfluger. We will go to Mr. LeGeyt. How much of
3012 the transmission consent fee is invested in local content
3013 versus sent to the network, the big networks?

3014 *Mr. LeGeyt. It varies fairly dramatically, depending
3015 on the station group and the particular network.

3016 But what I can tell you is that, at a local level,
3017 roughly 40 percent of a local broadcaster's operating budget
3018 is invested in local news and programming.

3019 *Mr. Pfluger. And maybe just as a follow-on to that,

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3020 how can government do it better when it comes to the
3021 regulatory posture there that ends up resulting in either
3022 better options or lower cost?

3023 *Mr. LeGeyt. Well, as -- I think what is extremely
3024 important about this -- and there is a lot of pressure coming
3025 down in terms of the cost of content creation, both on the
3026 part of my network members and the, you know, sports rights,
3027 all the things we have discussed today, as well as the
3028 increasing costs of local content. But there is no doubt
3029 that the retransmission consent regime of the last 30 years
3030 has enabled local stations around the country to reinvest in
3031 their local news programming. We are the most trusted. There
3032 is a reason for it.

3033 And as consumers are cutting the cord, increasingly
3034 consuming their content from these cable replacement
3035 services, the vMVPDs online, the FCC, the expert agency,
3036 needs to take a hard look at how that is going to impact that
3037 ability to invest in local. We have asked them to refresh
3038 the record in their 2014 vMVPD proceeding.

3039 *Mr. Pfluger. Okay. I will stay with you for a follow-
3040 on here. We see that media companies who are -- you know,

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3041 they are content creators, they are distributors, they are
3042 producers with the consolidation of the online video options,
3043 you know -- well, with the consolidation of online video, are
3044 the cross-ownership rules still necessary and -- go ahead.

3045 *Mr. LeGeyt. No, they are not. And further than that,
3046 I would argue that none of the current broadcast ownership
3047 rules, at least as written, remain relevant. They are
3048 premised on the notion that local broadcasters compete with
3049 only other local broadcasters for audience and advertising
3050 dollars. That is not the reality that we are competing in
3051 today, complicated by the fact that we are also competing
3052 with Big Tech for content costs.

3053 *Mr. Pfluger. I think I have time for one more.

3054 Mr. Schwantes, we have heard a lot about the
3055 marketplace, how it has changed, you know, in the last couple
3056 of years. Your testimony reflected that. It seems to me
3057 that the demands and expectations have probably changed a
3058 lot, as well.

3059 I mean, obviously, I started this statement by our own
3060 choices. But what is most important -- you know, what do you
3061 think is most important to the viewing public, and how are

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3062 our laws impeding the ability for consumers to have those
3063 choices?

3064 *Mr. Latta. In about 12 seconds.

3065 *Mr. Schwantes. I will say cost is a big one, and
3066 choice. I think consumers love all the different streaming
3067 services out there.

3068 I do think -- I mean, earlier someone said I want to
3069 deregulate everything. That is not true. I just think we
3070 can't take an old regulation from the cable era and apply it
3071 to streaming services. I think we need to have a fresh
3072 conversation about how we can do better to level the playing
3073 field across the board.

3074 *Mr. Pfluger. Thank you. My time has expired. I yield
3075 back.

3076 *Mr. Latta. Thank you. The gentleman's time has
3077 expired, and the chair now recognizes the gentleman from
3078 Texas's 33rd district for five minutes.

3079 *Mr. Veasey. Thank you very much, Mr. Chair.

3080 And, look, as someone that covered 3A football for our
3081 local paper in Texas -- and you all know how big football is
3082 in Texas -- I understand how important local news is, and

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3083 diversity in media and in our communities across the country
3084 is. And I really cannot emphasize enough the importance of
3085 having a strong local news presence in every town. A robust
3086 local news ecosystem is vital to making sure that both the
3087 freedom of expression and a strong democracy is something
3088 that stays in place.

3089 And while it is true that Americans have access to an
3090 inescapable flow of digital news and programming, the
3091 sustainability of local news and that ecosystem, I think, is
3092 in big danger right now. And it is very important and
3093 critical that, as we find ourselves in this information
3094 landscape in which misinformation runs rampant and facts are
3095 harder to come by.

3096 So with this backdrop I hope today's hearing can shed
3097 some light on the action items we in the industry can
3098 collaboratively take to save trusted local news and
3099 journalism, while also increasing opportunities for all
3100 Americans to benefit from the video marketplace.

3101 And so the first question that I had is I think it is
3102 imperative that we not overlook consumers in this
3103 conversation, particularly those who are low income or

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3104 economically vulnerable. While there is no doubt that the
3105 outline streaming options have increased competition and
3106 given consumers more choice and lowered cost for these
3107 services, robust and affordable broadband is necessary to
3108 take advantage of these options. And for too many, the cost
3109 of Internet is still out of reach.

3110 As you know, we have the Affordable Connectivity Program
3111 that I championed, and this made historic gains in this area.
3112 But funding for it is going to run out soon -- probably Q2 of
3113 next year is what most people have said. And if Congress
3114 doesn't provide more funding, we will be back. We will be
3115 back -- we will back that progress and make it harder for 21
3116 million Americans to balance their household budgets each
3117 month while subscribing to Internet services.

3118 And I want to ask Mr. Spellmeyer why is it so important
3119 that ACP get refunded?

3120 *Mr. Spellmeyer. Thank you, Congressman. ACP has
3121 certainly been an important lifeline for many of my members
3122 and their customers. Approximately 75 percent of ACA's
3123 member companies have participated in the ACP program. It is
3124 going to run out of money, you are correct. There are 20

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3125 million households on it today.

3126 Congress faces some tough choices that are beyond my pay
3127 grade in terms of how to fund it, whether to fund it, and how
3128 to change it. But certainly, I would urge Congress to take a
3129 close look at it. Many people do rely on it. And I would
3130 say there is a whole -- if they don't, there is a whole bunch
3131 of shutdown and transition issues that are real about how
3132 consumers are going to be -- you know, one day it is just
3133 going to go dark and the program is over. How do we deal
3134 with prior balances? How do we transition people to
3135 different plans?

3136 There is a lot of stuff that needs to be thought about
3137 in that area, once Congress reaches a funding decision.

3138 *Mr. Veasey. Yes, yes. No, thank you. I also wanted
3139 to ask a question about local news -- again, being such a
3140 trusted outlet for many people, especially, I think, when I
3141 was growing up and generations before me.

3142 And as the co-chair of the Congressional Voting Rights
3143 Caucus, there have been a lot of studies about
3144 misinformation, and around elections, and how that
3145 proliferates online and jeopardizes our democratic process.

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3146 And the people in my district often rely on local TV and
3147 radio stations to cut through the online noise and offer
3148 reliable information on when and where we vote.

3149 And I wanted to ask Mr. LeGeyt, can you talk about the
3150 important role local broadcasters play in our elections, and
3151 specifically the role broadcasters and local journalists play
3152 to combat misinformation that spreads online?

3153 *Mr. LeGeyt. Thank you for the question, Congressman,
3154 and for acknowledging the role that we are playing. In some
3155 ways you just did it as well as I possibly can.

3156 I mean, look, this is our priority. In light of where -
3157 - the state of the newspaper industry in this country, local
3158 broadcasters are the source of trusted local information,
3159 period. We are doubling down on that localism. We have
3160 increased the size of our newsrooms as an industry by 78
3161 percent over the last decade.

3162 And it is absolutely essential because we understand,
3163 especially the communities that you have talked about that
3164 are victimized by the digital divide, often minority
3165 communities that are particularly subject to disinformation,
3166 the local broadcast is going to be where they get their

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3167 information. And so we are providing vetted information not
3168 only on the issues, the candidates, but also election
3169 processes, where to vote, how to vote.

3170 I don't think our role has ever been more important as
3171 this disinformation is proliferating online, and we are very,
3172 very proud of the fact that we are doing that work, whether
3173 it is in school board elections --

3174 *Mr. Latta. I beg your pardon, the gentleman's time --

3175 *Mr. LeGeyt. -- local office, or national.

3176 *Mr. Latta. -- has expired.

3177 *Mr. Veasey. Thank you.

3178 *Mr. Latta. Thank you.

3179 *Mr. Veasey. Thank you.

3180 *Mr. Latta. And again, for members that have come in,
3181 our witnesses unfortunately did not have the light boxes in
3182 front of them today, so we are using the gavel at five
3183 minutes.

3184 The gentleman from Florida's 2nd district is recognized
3185 for five minutes.

3186 *Mr. Dunn. Thank you very much, Mr. Chairman. Let me
3187 say that it has been an interesting conversation. I am --

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3188 clearly, we needed to have this hearing.

3189 I have noticed a competition to maintain customers and
3190 to prevent this churning. The month-to-month changes between
3191 platforms has increased the cost, I think clearly, for
3192 consumers. But there are many providers that have short-term
3193 packages that allow our consumers to choose what they want
3194 and when they want with just no more than one month billing
3195 tail. We can unsubscribe at any time and get what we want in
3196 that way.

3197 I think the programs often jump from, you know, provider
3198 to provider just through free-market competition incentives
3199 to serve those customers. And I like to know I have the
3200 right to instantly pivot to another provider that picks up
3201 whatever show I like -- FSU football, whatever -- but, you
3202 know, I don't want to be locked in for two years on
3203 something.

3204 Another troubling matter emerging in the subscription TV
3205 market is, of course, the surge in prices to consumers. I
3206 wonder, I wonder if this can be owed to over-regulation of
3207 the marketplace, rather than under regulation. I have seen
3208 more disputes, more blackouts, more all these -- impasses I

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3209 am sorry -- these days, and I think it is clear that the
3210 cable's regulated status has a long history which intensified
3211 when the Federal cable rate rules and mandatory channels, the
3212 1992 Cable Act, came out.

3213 I note that President Bush 41 actually vetoed that
3214 legislation, and was unfortunately overridden by Congress.
3215 Then-Senator Biden was actually one of those override votes
3216 on that vote.

3217 So I hear many different opinions on how to work through
3218 this -- the problem of the modern video plays. Some people
3219 want to level the playing field by increasing regulation.
3220 Some people want to deregulate and thereby level the playing
3221 field. So I am going to ask a couple of questions, if I may.

3222 Mr. Gandler, I think it is fair to consider a
3223 technology-neutral system that is deregulated equally, all
3224 right? What are your thoughts on that, and what does that
3225 new system look like?

3226 *Mr. Gandler. I mean, we have a very simple product.
3227 We provide just video. We don't bundle it with broadband,
3228 telephony, or anything else so consumers can move in and out.
3229 As you said, it is frictionless. We offer trials, we offer

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3230 different packaging, we offer diversity packaging. We have
3231 packaging for, you know, different groups of people across
3232 the United States in different languages.

3233 But we are technology neutral. We are focused on
3234 technology. We are a software platform, I would say. We are
3235 agnostic to Roku or --

3236 *Mr. Dunn. And it sort of seems that we all are these
3237 days, software consumers, right? I mean, yes, I have
3238 StarLink at my house. Yes, I have cable, you know, fiber.
3239 So --

3240 *Mr. Gandler. Well, it is not all software, sir. You
3241 know, if you take companies like Samsung, they have a TV.
3242 That TV is a platform. So that is a device. There are
3243 companies like Amazon that have sticks, and Roku sticks is
3244 another example of a platform that has, you know, 50 to 70
3245 million customers at this point.

3246 We are pure play software. We -- in your home, if you
3247 have multiple different TV sets or sticks, you can move
3248 seamlessly from programing --

3249 *Mr. Dunn. Fair to say that you are for deregulation.

3250 *Mr. Gandler. Correct, sir.

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3251 *Mr. Dunn. Very good.

3252 Mr. Spellmeyer, in your testimony you correctly outline
3253 a dramatic increase in costs, and particularly the
3254 retransmission consent fees.

3255 In addition, consumers seem to have to -- they get
3256 billed for these inflated costs. Would you say these costs
3257 restrict the ability to carry diverse viewpoints from
3258 independent programmers unaffiliated with broadcast networks?

3259 *Mr. Spellmeyer. Yes, sir, it absolutely does. It adds
3260 -- it eats up resources that could otherwise be devoted to
3261 that programing. It also eats up capacity on cable networks
3262 to the extent they are capacity limited in some systems.

3263 I would add --

3264 *Mr. Dunn. And I think you have actually addressed that
3265 as I sat here.

3266 *Mr. Spellmeyer. Yes. No --

3267 *Mr. Dunn. But I wanted to ask that question because
3268 I --

3269 *Mr. Spellmeyer. It is a --

3270 *Mr. Dunn. I wanted everybody to understand that I care
3271 about the -- your answer to that, to that question.

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3272 In my remaining 20-some seconds, Mr. LeGeyt, my district
3273 gets hammered by hurricanes occasionally. Not since last
3274 week. My constituents depend on emergency alerts. Can you
3275 please talk about the broadcaster's role in that situation?

3276 *Mr. Latta. In 10 seconds.

3277 *Mr. LeGeyt. Thank you for the question. We are free.
3278 We are always on. We are lifelines in those times of
3279 emergency when other networks fail. And frankly, I think
3280 deregulation in some areas will help us to do even more of
3281 that. Continued regulation in some others will also help.

3282 But importantly, I think it is premature for this
3283 committee to be thinking about legislation. The FCC has the
3284 ability to examine those regulations and make some of those
3285 determinations for the benefit of our ability to --

3286 *Mr. Dunn. Thank you --

3287 *Mr. LeGeyt. -- serve your constituents.

3288 *Mr. Dunn. Thank you very much.

3289 And Mr. Chairman, thank you again. I yield back.

3290 *Mr. Latta. The gentleman's time has expired. The
3291 chair now recognizes the gentlelady from Florida's 3rd
3292 district for five minutes.

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3293 *Mrs. Cammack. Wonderful. Well, thank you, Mr.
3294 Chairman, for holding this important hearing today. Thank
3295 you to our witnesses for appearing before the committee.

3296 I actually am fascinated by this issue because it is so
3297 rapidly changing, this environment, that it is hard to keep
3298 up. And so, as a cord cutter myself, I just -- call me
3299 Twitterpated. I am sure my staff loves that right now.

3300 So jumping right into it, Mr. Gandler, in your testimony
3301 you mentioned that Fubo plans to introduce AI products that
3302 is designed to enhance the customer -- or the consumer
3303 experience. Can you detail what that might look like?

3304 *Mr. Gandler. Sure. Well, as I said initially, we are
3305 very focused on the consumer experience. And one of the ways
3306 we gauge that is by the level of engagement with our product
3307 relative to any other product in the marketplace. And as I
3308 stated, we are roughly at about just over 100 hours per
3309 household of our product.

3310 So the goal with AI and machine learning is to better
3311 index all of the programing, to better understand what people
3312 are watching, and to help with discovery of additional
3313 programming, which I think will help as we create, you know,

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3314 more channels. We have no capacity issues. So basically, if
3315 we wanted to, we could have 400, 500, 1,000 channels that
3316 people can access at any given time.

3317 *Mrs. Cammack. Well, and I think AI is going to have a
3318 profound effect on programing moving forward very --

3319 *Mr. Gandler. Right.

3320 *Mrs. Cammack. -- quickly that most people don't even
3321 recognize.

3322 So talking more broadly on the issue, right back to you,
3323 Mr. Gandler, and then LeGeyt -- did I say that right?

3324 *Mr. LeGeyt. You did.

3325 *Mrs. Cammack. Hey.

3326 *Mr. LeGeyt. Thank you.

3327 *Mrs. Cammack. All right. You both have touched on AI
3328 in your testimony. So the question to you both, what
3329 benefits/risks included does AI pose to the video marketplace
3330 moving forward?

3331 *Mr. Gandler. So maybe I will start. In my view, I
3332 think it puts the power into the user's hands, very different
3333 from social media, where algorithms decide basically what you
3334 see. And the way we are developing it is actually going to

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3335 allow the user to decide what they want.

3336 So basically, if you were a fan of Lionel Messi, who is
3337 now in the news all the time, you could basically say, "Show
3338 me everything Lionel Messi," and it will look for clips and
3339 news segments on any channel, you know, Spanish language,
3340 English language. So it is actually a pretty interesting
3341 tool to be able to really drive discovery.

3342 *Mrs. Cammack. Okay.

3343 *Mr. LeGeyt. I am going to focus on the impact on local
3344 broadcasting.

3345 *Mrs. Cammack. All right.

3346 *Mr. LeGeyt. And certainly, there are some
3347 opportunities for, you know, hyper-localism, some
3348 efficiencies in the way we write scripts that hopefully will
3349 enable more boots on the ground for the locally-focused
3350 reporting and rebuild that only people can do. But we do
3351 have several policy concerns.

3352 I mean, the first is we already have issues in the Big
3353 Tech landscape with our content being accessed online, not
3354 being fairly compensated for that local content. That is
3355 going to be potentially exacerbated by AI.

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3356 *Mrs. Cammack. Absolutely.

3357 *Mr. LeGeyt. That is scraping.

3358 Second, the image and likeness of our personalities,
3359 media personalities, both on a local and national level,
3360 ensuring that those are protected, very much top of mind for
3361 all of our members.

3362 And third, you know, we are the most trusted medium by
3363 all studies. And the challenges to newsrooms of vetting
3364 stories that are littered with AI-generated content, some of
3365 which will be difficult to decipher, we have got to make sure
3366 we have got the resources in place to do that well.

3367 So all of these challenges we are navigating and look
3368 forward to working with Congress on.

3369 *Mrs. Cammack. Well, and you touched on an issue that I
3370 am really curious about, is the liability issues that come
3371 with using AI-generated capability. I was actually recently
3372 abroad, and saw my very first 24/7 AI-generated anchor, and I
3373 thought that was fascinating. But I mean, with the benefits
3374 also come the risks. You hit on some of the copyright issues
3375 and what not.

3376 More on the risk side, I mean, has there been anything

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3377 from the -- so -- I know, Mr. Spellmeyer, there is so much
3378 that we could get into, and I only have 55 seconds.

3379 Real quick, can you hit on the risk that we have to look
3380 at mitigating from the liability of the streaming services
3381 utilizing AI, and the essentially crowdsourcing of it?

3382 *Mr. LeGeyt. Well, I think it is just ensuring that
3383 everyone in this landscape has the right mechanisms in place
3384 to ensure that that likeness -- it is one thing if it is
3385 truly an AI-generated likeness of a news anchor, it is
3386 another thing if it is an image of Lester Holt, and the
3387 viewer believes it is Lester Holt, but it is not.

3388 And so I think this is going to require a lot of work.
3389 It is already being done by many of our companies, but a lot
3390 of work to figure out how we ensure that our role as the most
3391 trusted isn't somehow undermined by consumer confusion.

3392 *Mrs. Cammack. And I can't believe my five minutes are
3393 up, so I will submit the remainder of my questions to you all
3394 in writing.

3395 [The information follows:]

3396

3397 *****COMMITTEE INSERT*****

3398

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3399 *Mrs. Cammack. And with that, I yield back.

3400 *Mr. Latta. The gentlelady yields back the balance of
3401 her time. The chair now recognizes the gentleman from Ohio's
3402 6th district for five minutes.

3403 *Mr. Johnson. Thank you, Mr. Chairman. I love this
3404 discussion about AI. I almost want to go off script here and
3405 dig into that a little bit.

3406 I can tell you there is two things I am not going to do.
3407 I am not going to fly on an airplane that is flown by an AI
3408 pilot, and I am not going to be diagnosed by a doctor that
3409 says he is an AI doctor to diagnose my medical condition,
3410 because I know how it works, right?

3411 Mr. LeGeyt, a few years ago Congress permanently
3412 extended STELAR, the satellite television reauthorization
3413 bill. As part of that process Congress reaffirmed the value
3414 of having local broadcast channels available to viewers in
3415 their local markets.

3416 We also made some other changes, like allowing small
3417 cable television providers to band together to jointly
3418 negotiate with large broadcast groups. Today we are holding
3419 this hearing to talk about changes that have happened to the

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3420 video marketplace since then, specifically regarding
3421 streaming and over-the-top services.

3422 So Mr. LeGeyt, can you speak to your member companies'
3423 position on how local broadcast stations should interact with
3424 streaming services, and what you see as the biggest
3425 opportunities and the biggest threats to local broadcasting
3426 thriving over the next few years?

3427 *Mr. LeGeyt. Thank you for the question, and I
3428 appreciate your reference to STELAR and this committee's work
3429 on that bill four years ago, because principally, what it did
3430 -- and we were strong supporters of it, including the relief
3431 that it provided for small cable companies -- but
3432 principally, what it did was reaffirm the importance of
3433 retransmission consent in allowing local stations across the
3434 country to invest in local programming and news.

3435 This is all very complicated in asking how those rules
3436 of the road should apply to the current cable replacement
3437 services that are happening on the streaming side, including
3438 Fubo.

3439 Within my membership, we don't have consensus as to what
3440 that answer is. But what we are asking is for the FCC, which

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3441 has an open proceeding on this, to refresh the record in that
3442 proceeding, to ask some of these very same questions, and to
3443 begin looking at these very difficult questions.

3444 *Mr. Johnson. Okay. Mr. Spellmeyer, I share your view
3445 and the view of many of my colleagues that Congress should be
3446 looking at how to deregulate, rather than adding additional
3447 players to an antiquated system in order to try and level the
3448 playing field and have a fair, competitive environment that
3449 meets the needs of the current video marketplace.

3450 You have also shared your concerns with retransmission
3451 consent framework, particularly for smaller providers, and
3452 noted the concerning trend of increased blackouts when
3453 broadcasters and TV providers are unable to reach an
3454 agreement. This is a big issue that impacts viewers in
3455 eastern Ohio and all over the country.

3456 As you know, in 2019 Congress amended the Communications
3457 Act to permit small MVPDs, those serving no more than 500,000
3458 subscribers nationally, to form buying groups to negotiate
3459 retransmission consent with large station groups. In your
3460 view, has this ability to form these groups in order to
3461 negotiate in buying, has that been effective?

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3462 *Mr. Spellmeyer. As I said earlier in response to
3463 another question, the answer is yes, it has. It has helped.
3464 Thank you to Congress for taking the action that you took in
3465 2019 in STELAR.

3466 The negotiations that came out of that happened
3467 relatively quickly after the passage of the bill, like three,
3468 four months later in the retransmission consent cycle. It is
3469 like a cycle of every three years, where we negotiate
3470 retrans. And so it happened very quickly. It produced some
3471 positive results, although not as much as we had hoped. And
3472 we are in the middle right now of heading into another one of
3473 those that will occur between now and the end of the year.

3474 And there will be some risk of blackouts. My members
3475 want to avoid that, and we want to come to agreement and keep
3476 customers online --

3477 *Mr. Johnson. Okay.

3478 *Mr. Spellmeyer. -- stations online for customers.

3479 *Mr. Johnson. Okay. Mr. Gandler, what strategies do
3480 you employ to attract and retain subscribers in a competitive
3481 market with various streaming options?

3482 *Mr. Gandler. Yes, well, you know, basically, it all

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3483 comes down to product. Fubo is number one in customer
3484 satisfaction among live TV service providers, according to
3485 J.D. Power.

3486 So we really focused on developing the technology,
3487 ensuring people are able to gain value from the -- I mean,
3488 it is not a cheap subscription, as you know. And so it is
3489 very important that we very quickly highlight the number of
3490 channels that people have access to, and also ensure that we
3491 are tracking what they are watching, and making sure that
3492 they are easily available to them.

3493 *Mr. Johnson. Okay. Mr. Chairman, I would yield back.

3494 *Mr. Latta. Thank you very much. The gentleman yields
3495 back. And looking around, we have no other members wishing
3496 to ask any questions at this time.

3497 I want to, first of all, thank our witnesses. You can
3498 tell this has been a great hearing. And we -- you know, we
3499 said it was going to be educational. We need to get more
3500 information out. So I think it is very important for all of
3501 you to have been with us today. We really appreciate your
3502 time.

3503 And at this time I do ask unanimous consent to insert in

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3504 the record the documents included on the staff hearing
3505 documents list.

3506 And without objection, so ordered.

3507 [The information follows:]

3508

3509 *****COMMITTEE INSERT*****

3510

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3511 *Mr. Latta. I will also remind members they have 10
3512 business days to submit questions for the record, and I ask
3513 the witnesses to respond to the questions promptly. Members
3514 should submit their questions by the close of business on
3515 September the 27.

3516 And without objection, the subcommittee is adjourned.

3517 [Whereupon, at 5:17 p.m., the subcommittee was
3518 adjourned.]