

Questions for the Record
“Lights, Camera, Subscriptions: State of the Video Marketplace”

United States House of Representatives
Committee on Energy and Commerce

Subcommittee on Communications and Technology

September 13, 2023

Written Questions Submitted by the Honorable Randy Weber to Curtis LeGeyt, Esq.

- 1. Please provide an overall “state-of-play” in the media market as you see it. What are some of the biggest challenges you currently experience?**
 - a. How would deregulation of the cable market impact your industry as a member of the “traditional” media market?**

Response:

Any consideration of deregulation in the telecommunications sector must be considered holistically and not limited to one specific area. Any proposed regulatory change in this space must consider two actions that will better enable broadcasters to serve our communities:

- Modernizing the Federal Communications Commission’s (FCC) local and national broadcast ownership rules to account for the rise, and increasing dominance, of digital media. Such changes would allow broadcasters to compete for audiences, advertising and investment against digital platforms operated by tech giants with market caps in the hundreds of billions of dollars. These reforms would also help safeguard the viability of local broadcast journalism, as broadcasters could leverage local economies of scale and spread the significant cost of news production across more outlets.
- Refreshing the record to reflect current marketplace realities in the FCC’s proceeding regarding virtual multichannel video programming distributors (vMVPDs). Now almost a decade after the FCC initiated its proceeding, the media landscape has completely transformed, but the FCC’s languishing record does not reflect these drastic changes and their impact on consumer access to local broadcast stations.

The reason is simple. Broadcasters compete in a media landscape that has been dramatically reshaped by changes in technology and an avalanche of content options. Yet we operate under a set of outdated rules and restrictions governing our scale and scope, which are premised on the idea that we compete only with one another for audience and advertising dollars, while other media and big tech platforms operate

without restraint. In reality, broadcasters are local and national, and our competition comes from pay-TV, over-the-top, satellite, podcasting, digital and beyond. Streaming usage has sky-rocketed, with streaming services like YouTube and Netflix now accounting for almost 39% of total U.S. TV usage. By contrast, in a first for linear TV viewing, cable and broadcast usage recently fell below 50% in terms of total share among U.S. viewers. AM/FM radio, while still representing a more than 70% share of advertising-supported listening, faces increased competition not only from streaming giants, but audio options such as podcasts where listening has quadrupled over the last four years.

Further, any proposed change must maintain local stations' ability to negotiate retransmission consent for the use of their programming. The current retransmission consent model – which allows local television stations to negotiate for the value of retransmitting their signals with cable and other multichannel video programming distributors (MVPDs) – permits local stations to be adequately compensated for their content and keep pace in an incredibly competitive marketplace. It also leads to more choice for viewers because stations have more resources to invest in local news, public affairs programming, emergency weather events and community activities.

2. Could you explain, briefly, the differences between the terms “broadcaster,” “station operator,” and “video distributor” and put them in context to the rest of the industry and give a real-life example of each?

Response:

A broadcaster is an FCC licensee that provides news, emergency alerting, entertainment programming, sports and investigative journalism to viewers and listeners over-the-air. Broadcasters make these services freely available in every community in America; no subscription or data plan is required to access our unique service. For example, KBMT-TV is a television broadcast station in Beaumont, Texas. A station operator runs multiple broadcast stations and is often a group like Graham Media Group, which operates multiple broadcast stations across the country, including KPRC-TV in Houston, Texas.

A multichannel video programming distributor (MVPD) is a type of video service provider that delivers multiple television channels to its customers or subscribers, such as a cable operator or satellite company. Under the Communications Act, an MVPD, such as DirecTV, must gain consent from a television broadcast station before retransmitting the station's signals. Cable and satellite operators are then able to resell broadcast signals to subscribers, amounting to billions of dollars in profits for those entities. In 2014, the FCC initiated a proceeding to consider modernizing the definition of MVPDs to include virtual streaming services that offer linear programming. Now almost a decade after the FCC initiated its proceeding, the media landscape has completely transformed, but the FCC's languishing record does not reflect these drastic changes and their impact on consumer access to local broadcast stations. Broadcasters support refreshing the FCC's record to reflect current marketplace realities.

Written Question Submitted by the Honorable Russ Fulcher to Curtis LeGeyt, Esq.

- 1. Can you please discuss the role that retransmission consent plays from the perspective of your industry? Do you think it's still necessary in today's media marketplace?**

Response:

Retransmission consent is essential to broadcasters' ability to invest in the locally-focused programming, sports, news and emergency information on which our audiences rely. It has driven unparalleled investment in local television content, resulting in abundant, locally-focused programming choices and services for viewers. By allowing local stations to negotiate for the value of retransmitting their signals with cable and other multichannel video programming distributor (MVPDs), the current system permits local stations to be adequately compensated for their content and keep pace in an incredibly competitive marketplace. It also leads to more choice for viewers and more resources for stations to invest in local news, public affairs programming, emergency weather events and community activities.

The current retransmission consent model – which leaves negotiations to the parties – is still necessary in today's media marketplace and is best-suited to continue to result in the availability of great sports, news, and entertainment for viewers of broadcast television.

Written Question Submitted by the Honorable August Pfluger to Curtis LeGeyt, Esq.

- 1. How much of the retransmission consent fee is kept by the local station versus sent to the network? Are we seeing that number increasing?**

Response:

The terms of a local station's network affiliation agreement (and retransmission consent agreement) are unique to each station (or group), so there is no one industry-wide fee structure. But in all cases, the retransmission consent system has resulted in abundant, locally focused programming choices and services for viewers. Local TV broadcast stations are able to negotiate for the value of retransmitting their signals with cable and other multichannel video programming distributor (MVPDs). Put simply, retransmission consent revenues are essential to every station's ability to reinvest in its programming, but the number of subscribers to MVPDs (which derive those revenues) continues to decrease rapidly.

In 2014, the FCC initiated a proceeding to consider modernizing the definition of MVPDs to include virtual streaming services that offer linear programming. Now almost a decade after the FCC initiated its proceeding, the media landscape has completely transformed, but the FCC's languishing record does not reflect these drastic changes

and their impact on consumer access to local broadcast stations. Broadcasters support refreshing the FCC's record to reflect current marketplace realities.

Written Question Submitted by the Honorable Kat Cammack to Curtis LeGeyt, Esq.

- 1. Have you all considered any future disruptions to the online video marketplace to meet consumer preferences and options? For example, what impact could the emergence and growth of Web3, or a decentralized internet, have on the video marketplace, and how could that impact competition and news?**

Response:

Broadcasters' commitment to serve our audiences involves constant innovation to meet consumer demand. One example of this is the next generation of broadcast television technology, known as NEXTGEN TV or ATSC 3.0, which will allow TV broadcasters to compete in today's media marketplace and reshape the modern TV experience. NEXTGEN TV is based on Internet Protocol (IP), meaning that this new broadcast standard is inherently more integrated with the internet and can harness broader innovations. Among the expected improvements are better reception, more channels, enhanced audio quality, advanced emergency alerting, availability on more mobile devices (like phones and tablets), and what is anticipated as the seamless combination of broadcast TV with the internet.

Broadcasters already have decentralized distribution via local stations with a core strength being the ability to deliver one-to-many. This makes broadcasters a key part of the "edge network" that moves and keeps content closer to consumers. And NEXTGEN TV isn't just video, but also data of any kind. With NEXTGEN TV, broadcasters become an integrated wireless IP network to meet future data needs from IOT, autonomous vehicles, smart cities, critical infrastructure and even distribution of software updates to smart phones. This is one of the many reasons why Congress and the FCC should continue supporting an expeditious rollout and full transition to NEXTGEN TV.