

The Honorable Earl L. “Buddy” Carter

- 1. The relationship between landlords and tenants historically has been a state-law issue. It seems far removed from the FCC’s core mission. Does the FCC have jurisdiction to regulate the contractual relationship between landlords and tenant, including agreements regarding the provision of broadband services provided to their tenants as a building amenity?**

The Commission has a long history of engagement with multi-tenant environments (MTE) while focusing on practices by telecommunications and broadband carriers and multichannel video programming distributors. The Commission has previously found that the fact that practices involve agreements with a third party, such as landlord-tenant agreements, does not preclude our ability to address them.¹ In the event this proceeding moves forward, I will look closely at our authority before any final rule is adopted.

- 2. The Commission previously has repeatedly reviewed broadband bulk billing arrangements and determined each time that their benefits exceed any potential downsides. Would the Commission’s decision to reverse this decision without first developing an administrative record to support the opposite conclusion open the Commission to substantial legal scrutiny as a decision that is arbitrary and capricious under the Administrative Procedure Act?**

The Commission has periodically reviewed bulk billing arrangements, most recently in 2010. Earlier this year, Chairwoman Rosenworcel circulated a Notice of Proposed Rulemaking that is currently pending before the Commission. If adopted, it would begin the process of developing an administrative record on bulk billing, and constitute the first step of the notice and comment process required by section 553 of the Administrative Procedure Act (APA). In the event this proceeding moves forward, I will look closely to ensure that the process satisfies the APA before any final rule is adopted.

¹ See *National Cable & Telecommun. Ass’n v. FCC*, 567 F.3d 659, 667 (D.C. Cir. 2009) (declining “to put issues relating to [MTE residents’] cable service outside the Commission’s authority simply because those issues also matter to their landlords”). See also *Bldg. Owners & Managers Ass’n Int’l v. FCC*, 254 F.3d 89, 96 (D.C. Cir. 2001) (finding where the Commission has regulatory authority to address building owner restrictions on renters, “it may assert jurisdiction over a party that directly furnishes those restrictions, and in so doing, the Commission may alter property rights created under state law”).

The Honorable August Pfluger

- 3. This Committee has held two hearings on the video marketplace. One thing that seems clear to me is that consumer demands have changed. They want more flexibility in choosing what they watch, when they watch it, where they watch it, and what they are charged for it. What actions should Congress take to modernize our nation's video laws to allow the marketplace to continue to evolve – especially for traditional PayTV providers who are trapped in a decades-old regime? What can the FCC do also to help foster this evolution?**

I agree that the video marketplace has changed dramatically, particularly since Congress enacted the laws under which the FCC regulates video programmers and providers. I welcome Congress taking a fresh look at the video space to determine whether modifications or additions to existing legislation would drive further innovation and competition across the marketplace. I would be happy to discuss this with your office.

Against the backdrop of these industry changes, the FCC can and should be focused on consumers. For example, I support the Commission's recent order requiring MVPDs to provide the bottom line, "all in" price on their bills. As you note, consumers want more transparency in their relationship with video service providers. This Commission action does so by giving consumers the information they need to effectively budget and comparison shop.