

October 17, 2019

The Honorable Roger Wicker
Chairman
Committee on Commerce, Science and
Transportation
UNITED STATES SENATE
512 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science, and
Transportation
UNITED STATES SENATE
425 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
UNITED STATES HOUSE OF REPRESENTATIVES
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce
UNITED STATES HOUSE OF REPRESENTATIVES
2322 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Wicker, Chairman Pallone, Ranking Member Cantwell, and Ranking Member Walden:

Each of our organizations represents smaller video providers. As we believe you know, smaller video providers find it especially difficult to offer reasonably priced video service because programmers—especially broadcasters—charge smaller providers far more for video content than they charge larger ones. Indeed, the FCC estimates that smaller video providers pay at least one third more than their larger counterparts for the carriage of broadcast stations under the retransmission consent regime.¹ We write to urge Congress to help address this “rural TV surcharge” when it renews expiring satellite television legislation by providing buying groups used by smaller providers access to the same good faith protections afforded to large providers.

Buying groups such as the National Cable Television Cooperative (“NCTC”) negotiate with large programmers on behalf of hundreds of smaller video providers.² NCTC negotiates standardized master agreements with these programmers and its members may opt into them.³ Because buying groups such as the NCTC act as an interface between programmers and their members, programmers can deal with a single entity for purposes of negotiating contracts, determining technical standards, billing and collecting payments, along with other matters. This marketplace mechanism benefits all

¹ *Communications Marketplace Report*, Report, FCC No. 18-181, GN Docket No. 18-231, App. B ¶ 38 (rel. Dec. 26, 2018).

² NCTC has master agreements with the vast majority of cable networks, including at least 45 of the top 50 networks. Almost all small-and medium-sized video providers are members of the NCTC and purchase a substantial share of the programming they distribute through the NCTC. Letter from Barbara Esbin to Marlene Dortch, Federal Communications Commission Media Bureau Docket No. 12-68 (filed Apr. 15, 2014).

³ See generally *Revision of the Commission’s Program Access Rules*, 27 FCC Rcd. 12605, ¶ 85 *et seq.* (2012) (describing NCTC’s and ACA Connects’ advocacy with respect to how the program access rules treat buying groups).

concerned: National programmers especially benefit from working with a buying group because it reduces their transaction costs of dealing with small and medium-sized video operators so that they are comparable to the transaction costs of dealing with a single large provider. Members of buying groups benefit because they receive lower rates (sometimes significantly lower) than they would receive through direct deals.⁴

In recent years, as broadcast station groups have grown larger, NCTC has sought to negotiate agreements with broadcast groups. Indeed, NCTC has reached agreements with some large groups like Sinclair, Quincy, and Hubbard. Here again, the market mechanism benefited all parties: broadcasters saved significant amounts on transaction costs and NCTC members got lower prices than they could have on their own. Yet many large broadcast groups choose not to deal with NCTC. The FCC's rules, moreover, provide no recourse to NCTC or its members in such circumstances.

Reps. Eshoo and Scalise have proposed language to promote the use of buying group marketplace solutions in their proposed *Modern Television Act*. We urge Congress to adopt a similar approach this year as part of any satellite television reauthorization. Such an approach would help limit video bill increases for millions of rural Americans and allow the video providers serving them to invest more in broadband.

Sincerely,

/s/
Genevieve Morelli
President
ITTA – the Voice of America's Broadband
Providers

/s/
Matthew Polka
President and CEO
ACA Connects – America's Communications
Association

/s/
Shirley Bloomfield
Chief Executive Officer
NTCA – The Rural Broadband Association

/s/
Jim Matheson
Chief Executive Officer
National Rural Electric Cooperative Association

/s/
Derrick Owens
Sr. Vice President of Gov. & Industry Affairs
WTA – Advocates for Rural Broadband

cc: Members of the U.S. Senate Committee on Commerce, Science & Transportation and
U.S. House of Representatives Committee on Energy and Commerce

⁴ See Comments of the American Cable Association, MB Docket No. 12-68, at 2-3 (filed Dec. 17, 2012) (noting that the rates NCTC can negotiate remain higher than those negotiated by the largest providers in the market).