

Congress of the United States

Washington, D.C. 20515

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July 23, 2012

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Genachowski:

We are concerned about the FCC's recent expansive interpretation of the "program carriage" rules. Expanding video regulation in the current environment ignores the realities of today's competitive marketplace.

In today's video market, cable operators compete with satellite operators, telecommunications providers offering video, over-the-air broadcasters, online streaming video and online video distributors such as Netflix, Hulu and Roku. Cable operators must make reasonable business decisions about which programming services offer the right price and value for their subscribers. Like any business operating in a competitive market, they need flexibility to select programming that is of interest to their consumers and to package that programming in a way that enhances consumer choice and reduces cost.

This is a much different market from 1992 when Congress first enacted the program carriage provisions. Those provisions restrict the ability of cable operators to freely negotiate with unaffiliated cable programmers. That may have made sense in 1992 when cable dominated the pay-TV market with regard to both distribution and programming. Today's market is much more competitive in both respects. The FCC's rules should reflect those changes rather than expand the reach of regulations that have outlived their purpose.

The FCC's recent interpretation of the program carriage rules, however, could be read to enable programmers effectively to force their way on to a cable operator's system by merely alleging that their programming is similar enough to the operator's affiliated programming, rather than showing that there has been anticompetitive discrimination.

This is a broad expansion of the FCC's program carriage rules and procedures. But more important, it is consumers who will ultimately bear the brunt of these expanded regulations through higher costs. In a difficult economy, consumers are looking for ways to trim their budgets.

Cable operators need the flexibility to respond, or risk losing their consumers. They also should not be forced to spend millions of dollars defending against groundless allegations.

Thank you for your assistance.

Sincerely,



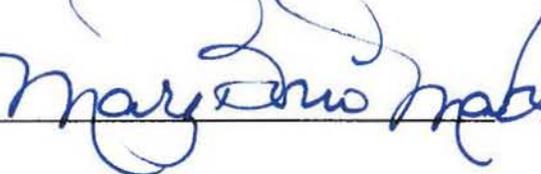
Fred Upton
Chairman
Committee on Energy and Commerce



Greg Walden
Chairman
Subcommittee on Communications and Technology
Committee on Energy and Commerce

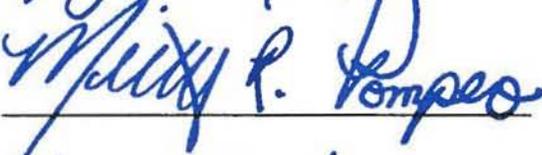




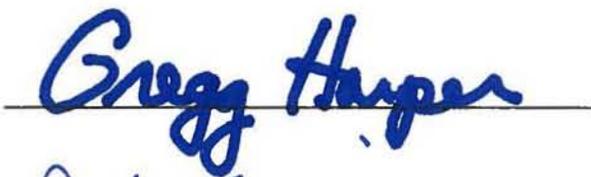




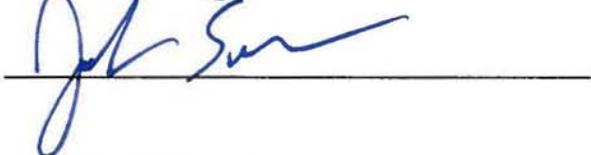








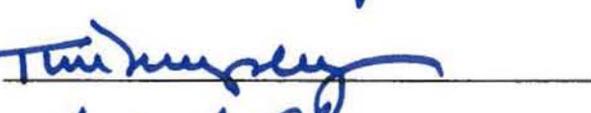
















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cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Anna Eshoo, Ranking Member
Subcommittee on Communications and Technology

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To: Mr. Greg Guice, Director of Legislative Affairs, Federal Communications Commission for
Chairman Julius Genachowski, Federal Communications Commission

From: Rep. Fred Upton, Chairman, Committee on Energy and Commerce
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Date: July 23, 2012

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Pages: 5 (Including cover)

Notes: