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Congress of the United States
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FCC Mail Room

TRANSPORTATION AND
INFRASTRUCTURE COMMITTEE
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MARITIME TRANSPORTATION
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SUBCOMMITTEES
NUTRITION
GENERAL FARM COMMODITIES AND
RISK MANAGEMENT

March 11, 2016

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler,

The Federal Communications Commission has initiated many proceedings of interest to the about 800 small and medium-sized broadband, video and voice providers in the market today. Several of these proceedings warrant particular attention: reform of the rules governing retransmission consent, the availability of navigation devices (set-top boxes) at retail, and the provision of a permanent exemption for such providers from the enhanced transparency rules adopted in the 2015 Open Internet Order.

Small and medium-sized providers serve seven million subscribers and have invested more than \$10 billion to deploy high-performance communications networks to more than 20% of the nation. These operators serve residential, commercial and institutional consumers in small towns and rural areas where the economics of operating are challenging and in urban areas where they give consumers competitive alternatives to incumbent operators. They are important members of the communities they serve, employing residents, paying taxes and serving customers with a local touch.

Last year the FCC opened rulemaking to review and updated its “totality of the circumstances” test for reviewing complaints that a broadcast TV station or multichannel video programming distributor (MVPD) has violated its duty to negotiate for retransmission consent in good faith. Since Congress’ enactment of the retransmission consent regime, significant changes in the marketplace have altered the negotiation dynamics between broadcasters and MVPDs. As a result of these changes and the FCC’s underdeveloped standards for evaluating bad faith proposals and conduct, negotiations have become increasingly acrimonious, evidenced by the growing incidence of blackouts that harm consumers. Smaller MVPDs and their customers are most vulnerable in this market. I therefore urge you to consider their concerns in this proceeding, and where you find these entities being treated improperly, to address it.

Recently, the FCC proposed rules regarding the development of a commercial market for set-top boxes that can access multichannel video programming over MVPD systems. Because smaller and less technologically advanced MVPDs may face especially onerous compliance burdens, I applaud the FCC’s willingness to seriously consider providing an exemption for MVPDs with one million subscribers or fewer by seeking comment on this issue. As this proceeding develops,

I encourage the FCC to consider the concerns raised by smaller MVPDs, and to take all necessary steps to avoid unduly burdening them.

I am also pleased the FCC considered the concerns of small and medium-sized broadband Internet service providers (ISPs) when it adopted and then extended a temporary exemption from its enhanced transparency rules for these providers in its 2015 Open Internet Order. Smaller ISPs have submitted a substantial quantity of data and information in support of adopting a permanent exemption, and the FCC should work with them to ensure that they are not unduly burdened by the new rules.

Small and medium-sized broadband, video and voice providers play an important role in the marketplace, and I encourage the FCC to make sure that their concerns are considered in all proceedings, including the three proceedings discussed above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bob Gibbs". The signature is stylized and cursive.

Bob Gibbs
Member of Congress