In the Matter of
Inquiry Concerning the Deployment of
Advanced Telecommunications Capability to
All Americans in a Reasonable and Timely
Fashion, and Possible Steps to Accelerate
Such Deployment Pursuant to Section 706 of
the Telecommunications Act of 1996, as
Amended by the Broadband Data
Improvement Act

COMMENTS OF AMERICAN CABLE ASSOCIATION
ON THE NOTICE OF INQUIRY ON IMMEDIATE ACTION
TO ACCELERATE DEPLOYMENT

The American Cable Association (“ACA”)\(^1\) hereby files comments in response to the
Federal Communications Commission’s (“Commission’s”) Notice of Inquiry (“NOI”) on
immediate action to accelerate deployment of advanced telecommunications capability.\(^2\)

\(^1\) ACA represents over 800 independent cable operators, incumbent telephone companies,
municipal utilities, and other local providers of video, broadband, and voice
communications services using a variety of technology platforms. These providers offer
service in smaller communities and rural areas, as well as by overbuilding other providers
in urban and suburban markets. In aggregate, these providers pass nearly 19 million
homes and serve nearly 7 million with video or broadband service. Approximately 2.75
million households subscribe to ACA members’ residential voice service, including non-
nomadic VoIP service.

\(^2\) See In the Matter of Inquiry Concerning the Deployment of Advanced
Telecommunications Capability to All Americans in a Reasonable and Timely Fashion,
and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the
Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act,
2015 Broadband Progress Report and Notice of Inquiry on Immediate Action to
Accelerate Deployment, GN Docket No. 14-126 (rel. Feb. 4, 2015). In these comments,
ACA treats the terms advanced telecommunications capability and broadband Internet
access service (or broadband service) as being synonymous.
I. INTRODUCTION AND SUMMARY

ACA focuses its comments in the above-referenced proceeding on actions that “remove barriers to infrastructure investment and encourage more expansive and more rapid deployment of networks that can provide advanced telecommunications capability.”\(^3\) Specifically, ACA explains that the excessive and increasing costs for video programming, the most expensive input for multichannel video programming distributor (“MVPD”) service — one of the key services provided over a network offering advanced telecommunications capability (broadband) — may inhibit the investment by small and medium-sized providers in networks that would provide this capability. There are immediate and specific actions that the Commission can and should take in both its pending program access and retransmission consent rulemakings to help address this problem. The Commission has authority under various provisions of the Communications Act, as amended, to provide the relief ACA and others have requested in these proceedings;\(^4\) however, because high video programming costs have real potential to harm broadband deployment, the Commission can also employ its Section 706 authority\(^5\) to bolster both its legal and policy case for prompt action.

The use of Section 706 to address problems in the video market is not novel. The Commission, for example, employed its Section 706 authority in its 2007 Report and Order removing barriers to the local franchising process so that new providers could more easily enter

\(^3\) See NOI, ¶ 158.
and offer MVPD service and thereby expand their broadband deployments. 6 The time is ripe for the Commission to use this authority again.

ACA is not alone in its concern about the high costs of video programming. Many have recognized that excessive video programming costs may inhibit advanced telecommunications capability network investment. 7 Last summer, for example, Chairman Wheeler wrote to the Chief Executive Officer of Time Warner Cable to inquire about the high price it was charging MVPDs to carry its regional sports network, SportsNet LA, and stated that he was “concerned about the negative impact that this dispute may have on the growth of broadband services in the Los Angeles area.” 8 The Commission thus should welcome the evidence that ACA presents in these comments, which demonstrates that excessive and increasing programming costs may harm network investment and deployment, and use it to act promptly on ACA’s recommended solutions.

---

6 See Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection Act of 1992, Second Report and Order, ¶ 62, FCC 07-190 (Nov. 6, 2007) (“The record here indicates that a provider’s ability to offer video service and to deploy broadband networks are linked intrinsically.”).

7 State regulators have been concerned about high video programming costs. In 2011, the Committee on Telecommunications of the National Association of Regulatory Utility Commissioners adopted a resolution urging the Commission to refer the questions of whether small carriers have “reasonable and economic access” to video content to a Section 706 Joint Conference. See “Resolution on Fair and Non-Discriminatory Access to Content,” National Association of Regulatory Utility Commissioners (Feb. 16, 2011) available at http://www.naruc.org/Resolutions/Resolution%20on%20Fair%20and%20Non%20Discriminatory%20Access%20to%20Content.pdf.

8 See Letter from Chairman Tom Wheeler to Mr. Robert D. Marcus, Chief Executive Officer, Time Warner Cable (July 29, 2014); see also In the Matter of Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services, MB Docket No. 14-261, ¶ 5 (Dec. 19, 2014) (The Commission made this same connection in the pending notice of proposed rulemaking on the treatment of over-the-top programming, noting that “increasing demand for broadband [by enabling over-the-top video programmers to be more like MVPDs] may in turn provide a boost to the deployment of high-speed broadband networks.”).
II. THE EXCESSIVE AND INCREASING COST OF VIDEO PROGRAMMING MAY INHIBIT INVESTMENT AND DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS CAPABILITY BY SMALL AND MEDIUM-SIZED PROVIDERS

In recent years, small and medium-sized MVPDs and new entrants have been responsible for substantial investments in new broadband deployment, particularly in rural areas. To make those investments earn a sufficient return, these providers not only offer broadband service but MVPD service as well. But this business model is being stressed as programming owners charge MVPDs fees that have been growing at a rate far in excess of the prices these providers can charge consumers. The margin squeeze for smaller providers and potential new entrants is particularly severe, reducing, if not eliminating, free cash flow that in turn hinders their ability to invest in new or more expansive broadband infrastructure.

A. Small providers and new entrants are integral to increasing high-performance broadband deployment, especially in rural areas

Small and medium-sized MVPDs and new entrants are at the forefront of deploying new or more expansive high-performance broadband networks, especially in rural areas. ACA member companies, whose footprints cover 19 percent of the population of small cities and rural areas,\(^9\) have been steadily deploying new infrastructure in these communities. Most of these networks use DOCSIS technology, which enables high-speed broadband service. As for other newer providers, Google Fiber has been building its fiber-to-the-home (“FTTH”) networks in Kansas City, Missouri, Kansas City, Kansas, and Austin, Texas, and has recently confirmed plans to build in four additional metro areas.\(^{10}\) Incumbent local exchange carriers with legacy

---


\(^{10}\) See “Google Fiber is coming to Atlanta, Charlotte, Nashville and Raleigh-Durham,” Google Fiber Blog (Jan. 27, 2015) available at [www.googleblog.blogspot.com/2015/01/google-fiber-new-metro-areas.html](http://www.googleblog.blogspot.com/2015/01/google-fiber-new-metro-areas.html)
copper infrastructure, such as CenturyLink\textsuperscript{11} and Cincinnati Bell\textsuperscript{12}, too have been upgrading their networks to FTTH. Additionally, an increasing number of municipalities have built or are exploring building municipal fiber networks. In almost all instances, these providers are employing the traditional triple-play business model, where MVPD service provides the largest share of revenues.

B. Investment in and expansion of broadband infrastructure by smaller providers and new entrants depends on their ability to offer a viable multichannel video service

Even with the growth of online video distribution in recent years, MVPD service remains an essential product for most households – and a key part of the triple-play package for providers. The research firm, LRG, found that while MVPDs had net loss of subscribers in 2014, “the losses remained modest” – less than 100,000 subscribers.\textsuperscript{13} In 2014, approximately 84 percent of all households in the U.S. (116 million households) subscribed to pay-TV,\textsuperscript{14} and the revenues from MVPD service, which are in the many tens of billions, have been the primary source of revenue for triple-play providers. Thus, while broadband offers higher margins than pay-TV, few providers see a viable business model in offering only broadband. For instance, in

\begin{itemize}
  \item \textsuperscript{14} See Daniel Frankel, “U.S. pay-TV penetration flat at 84% of homes… and Netflix has little to do with that, study says,” (Sept. 2, 2014) available at (http://www.fiercetelecom.com/story/us-pay-tv-penetration-flat-84-homes-and-netflix-has-little-do-it-study-says/2014-09-02).
\end{itemize}
an interview last fall, former Windstream chief executive Jeff Gardner said, “If you’re going to pull customers to your broadband and other services, you’ve got to lead with [pay-TV].”

Google Fiber shares this view. Despite focusing on ultra-fast broadband, it understands that to appeal to consumers it needs to offer MVPD service as part of its bundle. Additionally, in a recently posted interview, Kevin Werbach, Professor of Legal Studies and Business Ethics at Wharton, explains:

> There’s another set of issues that would seem not to be related [to broadband competition], but, it’s the price of getting to video. So, if you want to offer a competing fiber broadband service, you have to offer a bundle. You’ve got to offer the so-called triple play [i.e., phone, cable and Internet], because that’s what people expect. But, it actually is far more expensive for a new entrant to get access to the programming, all the channels, than it is for an established player. So, that’s also something that the agency hasn’t acted on, but, I think they may act on [in the future].

In sum, until consumer behavior shows a dramatic change, providers are unlikely to move toward a broadband-only business model and will continue to rely on MVPD service as a key source of revenue to fund their investment.

C. **Video programming costs are increasing significant, which in turn is squeezing small providers’ margins**

Between 2006 and 2014, video programming costs for the MVPD industry have more than doubled. According to data from SNL Kagan, per-subscriber programming costs across all

---


16 See id. (Speaking at an industry conference in October 2014, Milo Medin, head of Google Fiber, referred to pay-TV as the “single biggest impediment” to Google Fiber’s deployment).

MVPDs increased at an annual growth rate\(^\text{18}\) of 9.3 percent between 2006 and 2014.\(^\text{19}\) For smaller providers, the growth in programming costs has been much greater.\(^\text{20}\)

Meanwhile the prices that providers can charge their customers for MVPD service have not kept pace. Between 2009 and 2014, per-subscriber MVPD revenues grew at an annual rate of 4.9 percent.\(^\text{21}\) Due to competition from other MVPDs, the threat of over-the-top substitutes like Netflix and Amazon Prime, and overall consumer price sensitivity, providers have not been able to pass along to their customers all of the increases in programming fees. As a result, providers’ margins are shrinking (see Figure 1). Analysis by Cartesian, a consulting firm specializing in telecommunications and retained by ACA, shows that if current trends continue traditional MVPD margins will be reduced substantially each year and that this service, which has been the foundational service for triple-play providers, may become a losing proposition for small to medium-sized providers within the next five years – by 2020 (see Figure 2) – or even sooner should conditions deteriorate more rapidly than anticipated.\(^\text{22}\)

\(^{18}\) All annual growth rates in the letter are compound annual growth rates.

\(^{19}\) Source: SNL Kagan Estimates 2014.

\(^{20}\) See id. In interviews with ACA’s consultant, some ACA members identified having recently seen annual programming fee growth of 15 percent or greater.


\(^{22}\) In its analysis, the consulting firm, using benchmarks from small to medium-sized providers, assumed that 60 percent of pay-TV revenues go towards programming fees in 2014, and conservatively estimated that programming fees for these providers will grow 10 percent a year. Based on data from SNL Kagan, it assumed that non-programming operating costs are 22 percent of pay-TV revenues and grow at 1.5 percent a year, roughly the level of inflation. Based on these market-based assumptions, margins for pay-TV for small and medium-sized service providers are projected to go negative by 2020.
Figure 1: US Pay-TV Per-Subscriber Monthly Revenue and Programming Fee Growth Rate (2009-2014)

Source: SNL Kagan Estimates 2014

Figure 2: Projected Pay-TV Margin for Small and Medium-Sized Triple Play Providers (2015-2024)
If traditional MVPD margins continue to decline, absolute free cash flow for service providers will decline as well. This will reduce the overall amount of capital available for investment in new broadband deployment by existing and new entities. Without a moderation in the rise in programming fees, new broadband builds, particularly in many of the least-served parts of the country, will be threatened. In the next section, ACA proposes immediate and specific steps to begin to address the surge in programming prices and their potential effect on broadband investment.

III. THE COMMISSION SHOULD ACT IMMEDIATELY TO ADDRESS THE HARM EXCESSIVE AND INCREASING VIDEO PROGRAMMING PRICES HAVE ON NETWORK INVESTMENTS THAT WOULD PROVIDE ADVANCED TELECOMMUNICATIONS CAPABILITY BY ADOPTING REFORMS TO ITS PROGRAM ACCESS AND RETRANSMISSION CONSENT RULES

ACA believes there are many actions the Commission can – and should – take to address the harm to investment in broadband networks caused by excessive and increasing video programming prices. Just a few of the actions the Commission could take that would have a material impact on alleviating the problem are discussed below. These solutions could be adopted quickly since they address problems the Commission has been examining for years as part of pending rulemakings, and as such, the problems and solutions have already been subject to extensive comment and evaluation. ACA submits that the Commission could have and should have already used its authority under the Communications Act to adopt these solutions based on the evidence ACA submitted in those proceedings. Now that it is evident that high programming costs may inhibit broadband deployment, there is even greater reason for the Commission to act

23 One additional and related measure the Commission could take is to launch the rule making requested by Mediacom Communications Corporation in June 2014, which asked that the Commission examine and take action to limit bundling and volume discounts to address run-away programming price increases. See Mediacom Communications Corporation, Petition for Rulemaking to Amend the Commission’s Rules Governing Practices of Video Programming Vendors, RM-11728 (filed July 21, 2014).
promptly in those rulemakings. Moreover, the Commission can use its Section 706 authority to augment its statutory authority over program access and retransmission consent to accelerate the deployment of advanced telecommunication capabilities and the networks they ride over.

A. Program Access Reforms

The Commission’s program access rules should be updated to preserve and protect competition in video distribution markets, including by ensuring that an MVPD buying group, like the National Cable Television Cooperative (“NCTC”), has the right to bring a complaint against a cable-affiliated programmer who imposes discriminatory rates, terms, and conditions. In addition, the Commission should ease the burden on aggrieved MVPDs and their buying groups to bring complaint cases and standstill requests against cable-affiliated programmers through the use of rebuttable evidentiary presumptions.

Protecting Buying Groups Under Rules as Congress Intended. Today, more than 900 small and medium-sized broadband and video providers across the country rely upon a single buying group, the NCTC, to negotiate the bulk of their programming agreements. However, in the 1990s the FCC defined the term “buying group” in an overly restrictive manner, effectively excluding NCTC. As a result, the many hundreds of MVPDs that rely exclusively on NCTC to negotiate their cable programming agreements are without the program access protections intended by statute and at risk of facing higher rates.

To this end, ACA has urged the Commission to adopt its reforms concerning buying groups:

- The definition of “buying group” that is used to determine if an entity qualifies for protection under program access rules should be expanded to include entities that satisfy an alternative liability condition that is consistent with current industry practices;

- A provision should be adopted that prohibits cable affiliated programmers from excluding a member of a buying group from participating in a master agreement the
buying group has negotiated with a programmer, so long as the member is below a reasonable size threshold and satisfies other reasonable criteria normally applied in the industry for participation in programming agreements; and

- The Commission should clarify that cable-affiliated programmers are required to extend the same volume discounts to buying groups as they extend to individual MVPDs, controlling for other factors that program access rules allow programming rates to depend on.\(^{24}\)

In the proceeding pending for over two years,\(^{25}\) no valid objections have been raised against these proposals. Accordingly, the Commission should adopt them without delay.

**Adopting Rebuttable Presumptions for Section 628(b) Complaints.** In addition, the Commission should ensure that MVPDs can make use of the rebuttable evidentiary presumptions in their standstill requests and complaints filed against cable-affiliated programmers and cable operators under Section 628(b). The Commission proposed these actions in 2012, when it permitted the prohibition on exclusive contracts to sunset. The Commission’s sunset of the exclusive contract prohibition was a material change in law favoring exclusive arrangements involving cable-affiliated programmers. Pre-sunset, exclusive contracts were prohibited for all cable-affiliated satellite-delivered programming under Section 628(c)(2)(D). All a complainant had to show under that provision was that the cable-affiliated programmer had entered into an exclusive contract and that such contract did not satisfy the public interest exception. Post-sunset, all exclusive contracts are permitted, and the only means of protection for MVPDs denied access on the basis of an exclusive contract are case-by-case challenges under Section 628(b). These complaints require the complainant to produce evidence and persuade the Commission

\(^{24}\) *See e.g.* ACA Program Access Comments.

that a particular exclusive contract for cable affiliated, satellite-delivered programming is unfair and a significant hindrance to competition. The Commission has recognized that this approach imposes burdens on litigants and the Commission, and accordingly proposed the use of rebuttable presumptions in appropriate cases to reduce these burdens.

In any decision-making process where the Commission has already determined that one fact is true (the “proved fact”) and is attempting to determine if an additional fact is true (the “inferred fact”), it is legally permissible for the Commission to adopt the rebuttable presumption that the inferred fact is true. The Commission has relied on this principle to create (i) the rebuttable presumption that acts of exerting undue influence, discrimination, and exclusive contracting satisfy the significant hindrance standard when taken with respect to terrestrially-delivered, cable-affiliated programming, and (ii) the rebuttable presumption that acts of exclusive contracting over satellite-delivered, cable-affiliated National Sports Network (“NSN”) programming.

Consistent with the rationale underlying these determinations, ACA proposes the Commission adopt the following rebuttable evidentiary presumptions:

- The presumption that the unfair act standard is met for the case of exclusive contracts with respect to cable-affiliated RSNs (satellite and terrestrial delivered).
- The presumption that both the significant hindrance standard and the unfair act standard are satisfied for the case of exclusive contracts over satellite-delivered, cable-affiliated National Sports Network (“NSN”) programming.
- The presumption that both the significant hindrance standard and the unfair act standard are satisfied for the case of other satellite-delivered, cable-affiliated programming whose exclusive arrangement was successfully challenged by an MVPD.

None of the arguments advanced by cable-affiliated programmers and vertically integrated cable operators should prevent the Commission from adopting every one of these proposed rebuttable presumptions.
Adopting Comprehensive Standstill Relief. Furthermore, the Commission can and should improve the protections afforded aggrieved MVPDs under its program access standstill rules by adopting the rebuttable presumption that the conditions necessary to obtain standstill of an existing contract are satisfied in the case of an exclusive contract involving a cable-affiliated RSN. However, the Commission must go further and also address the more serious problem that the current standstill procedures fail to provide immediate protection for MVPDs and their subscribers from withdrawal of the programming upon expiration of a contract during the period while the Commission considers the standstill petition.

The Commission can address this problem with respect to all program access complaints by:

- Creating a process where program access complainants can request and receive an immediate temporary 14-day standstill while their request for a “standstill pending resolution of the compliant” is being decided; and
- Requiring resolution of a request for a “standstill pending resolution of the complaint” within 14 days of when the request is filed. Together, these procedures will create comprehensive standstill relief that adequately protects MVPDs and their subscribers.

The record does not reflect any arguments against these proposals that should prevent their adoption.

Imposing a Categorical Determination Concerning Discrimination. Finally, the Commission should determine that discrimination with respect to cable-affiliated terrestrially-delivered programming that does not satisfy one of the four exceptions listed in Section 628(c)(2)(B) categorically satisfies the unfair act standard of Section 628(b). This will close a significant gap in the protections afforded to MVPDs by program access rules. This action is justified by the fact that Section 628(c)(2)(B) can be interpreted as essentially stating that discrimination with respect to satellite-delivered, cable-affiliated programming that does not satisfy one of the four exception listed in Section 628(c)(2)(B) categorically satisfies the unfair
act standard. ACA submits that there is no basis for the Commission to find that the method of delivery for the cable-affiliated programming (terrestrial vs. satellite delivery) would alter the conclusion that discrimination that does not satisfy one of the exceptions listed in Section 628(c)(2)(B) categorically satisfies the unfair act standard.26

B. Retransmission Consent Reforms

Under current market conditions, where MVPDs compete head-to-head for subscribers with one another and the broadcasting industry is increasingly consolidated among large broadcast station groups, the retransmission consent regime in place enables broadcaster television stations to unfairly and unreasonably leverage MVPDs in their negotiations for the rights to carry local broadcast signals, resulting in constantly increasing prices for these rights and blackouts. ACA applauds the Commission for recognizing this and related problems with its good faith negotiation rules, and for initiating a proceeding four years ago to examine ways to address them.27 Last year, the Commission finally began reforming its retransmission consent rules by prohibiting coordinated negotiations by separately owned top-four rated stations in the same designated market area to facilitate the fair and effective completion of retransmission consent negotiations.28 But, more is required if the Commission is to re-balance the marketplace


28 See In the Matter of Amendment of the Commission’s Rules Related to Retransmission Consent, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 3351 (2014); see also STELA Reauthorization Act of 2014 (“STELAR”), PL 113-200, § 103(a) (Dec. 4, 2104) (Congress adopted an even more stringent prohibition on all joint negotiations by stations not under common control); Implementation of Sections 101, 103 and 105 of the STELA Reauthorization Act of 2014 (“STELAR Implementation Order”), MB Docket No. 15-37, ¶ 4 (Feb. 18, 2105) (The Commission implemented the statute by amending its rules to prohibit all joint negotiations by stations not under common de jure control).
for the disposition of retransmission consent rights and prevent rates, terms, and conditions from business practices inconsistent with the public interest. To that end, ACA has urged, and continues to urge, the Commission take the actions listed below to reform its retransmission consent rules.\textsuperscript{29}

Adopting a Dispute Resolution Mechanism to Protect Consumers and MVPDs From Service Disruptions. ACA has highlighted the rising incidence of MVPD customers going without access to local broadcast signals from their cable or satellite TV provider because of increasing numbers of retransmission consent disputes and blackouts. The purpose of these blackouts is to pressure MVPDs into accepting inordinately high retransmission consent prices to ensure their subscribers have continued access to local broadcast signals on their subscription TV service. Consumers are just pawns in the broadcasters’ game. The time has come for the Commission to act.

ACA proposed that the Commission adopt a rule mandating that broadcasters and MVPDs continue to offer a broadcast station’s signal to consumers after an existing retransmission consent agreement expires and while the terms of a new agreement are pending resolution of a dispute. Under this proposed rule, the parties’ existing retransmission consent agreement would automatically be extended past its expiration date, and an MVPD would continue to pay the broadcaster for retransmission consent rights per such contract. At the time that the dispute is resolved and a new agreement is signed, the prices and terms of the new agreement would retroactively apply to begin immediately after the previous agreement’s expiration date and any required true-up of prices would be applied.

\textsuperscript{29} See e.g. Retransmission Consent Comments.
This proposal would prevent broadcasters from utilizing blackouts to impose unreasonable prices, terms, and conditions of carriage for the broadcaster’s signal. It ensures consumers have continued access to broadcast stations while parties continue to negotiate.\textsuperscript{30} The Commission has adopted this type of standstill relief on numerous occasions,\textsuperscript{31} and it has worked.

**Determining that Online Blocking of Video Content Violates Good Faith Rules.** ACA has also raised concerns about the practice engaged in by some broadcast stations to block an MVPD’s broadband customers from accessing their online content, which is made freely available, during a retransmission consent dispute with that MVPD.\textsuperscript{32} This practice is intended to drive up prices for retransmission consent for linear broadcast station carriage and not only harms innocent broadband consumers but also is inconsistent with the Commission’s open Internet policies. ACA proposes that the Commission address this concern by deeming this practice a *per se* violation of the retransmission consent good faith rules and further proposes that the Commission initiate a further notice in the retransmission consent docket to address this problem and vet its solution.

\textsuperscript{30} MVPDs should not be permitted to indefinitely carry broadcast signals pursuant to an expired agreement. It is therefore appropriate for parties, unable to reach agreement on their own within a reasonable cooling off period, to engage in non-binding mediation to help facilitate resolution. If the parties continue to be unable to reach an agreement, even with the assistance of non-binding mediation, as a last resort, one of the parties should be permitted to request binding baseball-style commercial arbitration where an experienced arbitrator agreed upon by both parties would hear the dispute.

\textsuperscript{31} *See* Comments of the American Cable Association (May 27, 2011) at 74-75 (the Commission has imposed standstill requirements to permit continued carriage of programming pending resolution of disputes in several contexts and its ability to establish such requirements is well established).

\textsuperscript{32} *See* Comments of American Cable Association, RM 11728 at 2 (Sept. 29, 2014).
IV. CONCLUSION

In these comments, ACA explains that video programming is the most expensive input for MPVD service and a critical service provided over a network offering advanced telecommunications capability and that the excessive and increasing costs for this service may inhibit investment by small and medium-sized providers in networks that would provide this capability. Accordingly, ACA recommends that the Commission should immediately take a series of specific actions in its pending program access and retransmission consent rulemakings. The Commission already has authority under the Communications Act to provide this relief, but because high video programming costs have real potential to harm broadband deployment, the Commission can also employ its Section 706 authority to support its legal and policy case for prompt action.
Respectfully submitted,

Matthew M. Polka  
President and Chief Executive Officer  
American Cable Association  
Seven Parkway Center  
Suite 755  
Pittsburgh, Pennsylvania 15220  
(412) 922-8300

Ross J. Lieberman  
Senior Vice President of Government Affairs  
American Cable Association  
2415 39th Place, NW  
Washington, DC 20007  
(202) 494-5661

March 6, 2015

AMERICAN CABLE ASSOCIATION

Thomas Cohen  
Kelley Drye & Warren LLP  
Suite 400  
3050 K Street, NW  
Washington, DC 20007  
Tel. (202) 342-8518  
Fax (202) 342-8451  
tcohen@kelleydrye.com  
Counsel to the American Cable Association