

FCC Regulation of Internet Video: Implications for Local Government and Community Media

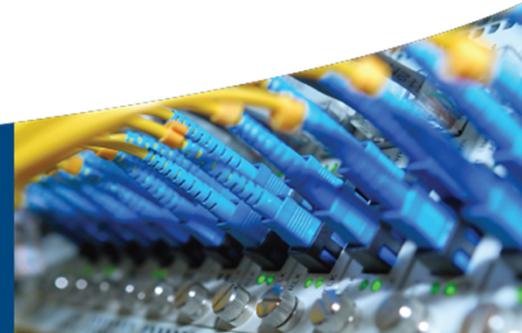
Alliance for Community Media 2015 Annual Conference
Pasadena, CA – August 13, 2015

PRESENTED BY

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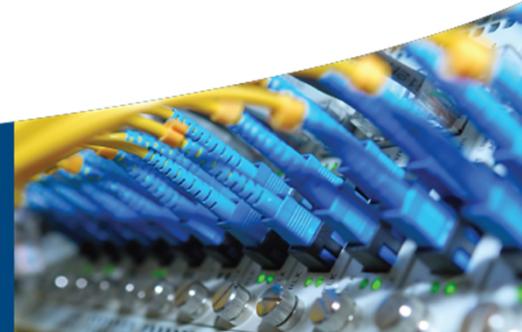
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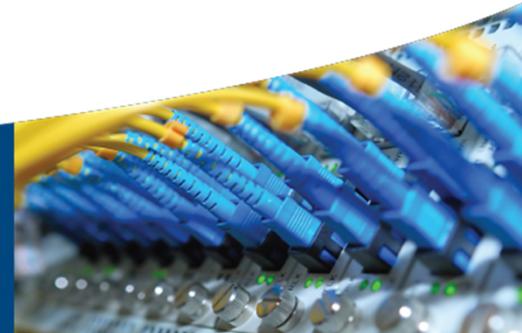
FCC Notice of Proposed Rulemaking

- Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services, Docket No. MB 14-261
- <https://www.fcc.gov/document/commission-adopts-mvpd-definition-nprm>
- Formal pleading cycle closed, *ex partes* permitted
- Possible decision in Fall – immediate action required



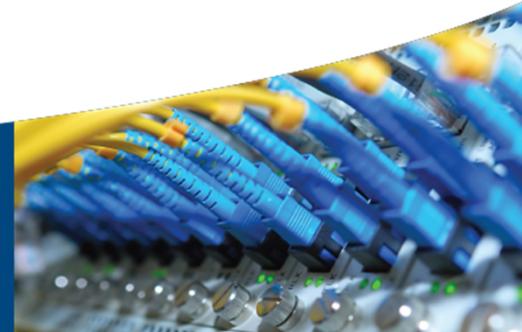
Overview

- Main issue: What is a multi-channel video service provider?
- If companies providing video via the public Internet are MVPDs, they can obtain access to programming that that might not otherwise be available.
- Related: does classification as video programming service mean it is a cable service?



What Is OTT?

- FCC definition in rulemaking: “linear video services that travel over the public Internet and that cable operators do not treat as managed video services on any cable system.”
- Linear = scheduled and virtually simultaneous with transmission - not like (traditional) Netflix or iTunes



Is OTT provided by third party subject to franchise fees?

- Traditional fees reach “Cable Operators”: entities that own or control cable systems.
- But, Cable Act says: nothing in Cable Act limits right of locality “to impose a... fee...on any person (other than a cable operator) with respect to cable service or other communications service provided by such person over a cable system...” if fee NOT received by cable op



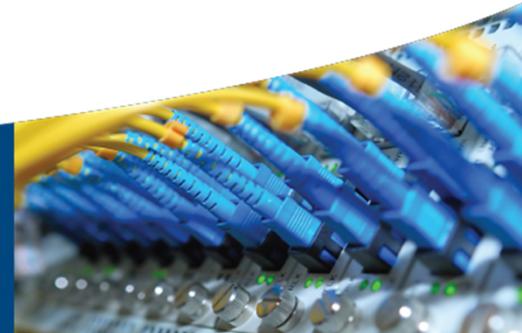
What about Cable Operator provided OTT?

- “Video programming services that a cable operator may offer over the Internet should not be regulated as cable services.”
- “If a cable operator delivers video programming service over the Internet, rather than as a managed video service over its own facilities, we tentatively conclude... this entity would be... a non-cable MVPD under our proposed Linear Programming Interpretation with respect to its OTT service.”
- An OTT service, if provided to consumers without regard to whether they subscribe to the cable operator’s managed video service, would be a non-cable MVPD service inside and outside of the operator’s footprint....



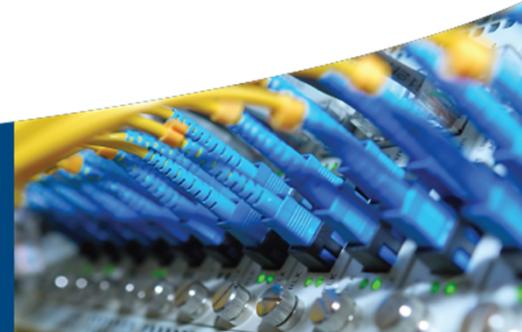
Why We Care

- If not “cable service,” then no franchise fees or PEG support under Cable Act
- If not cable service, PEG fees can’t be used to support OTT
- If not cable service not subject to consumer protections
- Most important: reduces cable service to an increasingly niche service...



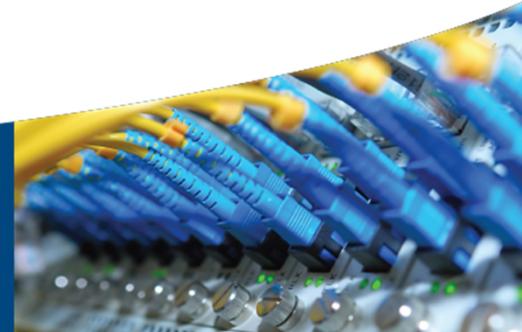
Why We Care

- *If cable service* – opens door to fees but also to more dynamic delivery of community video
- If a cable service, what does it mean to provide a “channel?” Could an operator meet “channel obligations” by *only* providing PEG OTT?
- Rulemaking assumes that for some purposes, term channel refers to program stream – NOT capacity
- This is tip of an iceberg that may affect:
 - what it means to provide you a channel
 - what you provide [copyright?]
 - how it is provided [non-commercial]
 - who is responsible for the content



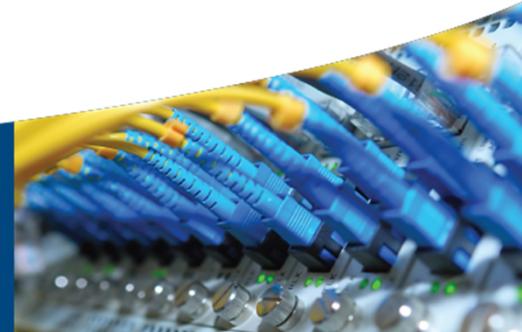
Good News...

- FCC concludes that an entity that uses IP to deliver managed video services (AT&T, CenturyLink and so on) ARE cable operators and ARE subject to cable regulations and requirements
- Bad news: the rule of increments on display



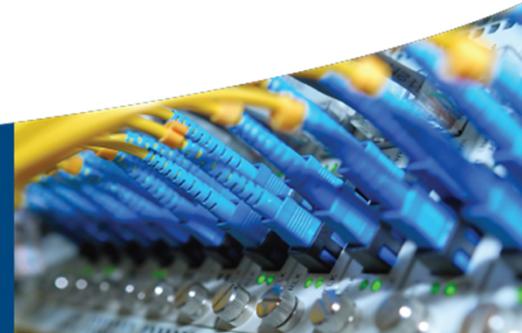
Who Filed Comments?

- This is one of a series of existential threats to PEG
- Many companies and interest groups
- Leading local commenters – Coalition (Anne Arundel County, MD etc.); City of San Antonio, TX; Alliance for Community Media
- Other local commenters – District of Columbia; American Community Television; NATOA



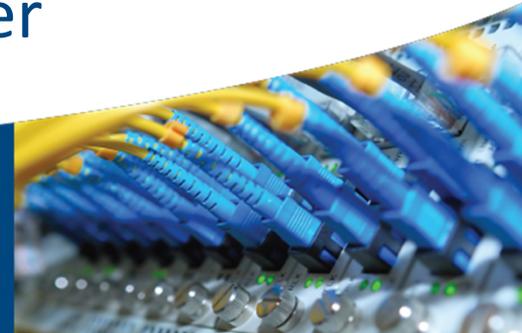
Who Has Filed Ex Partes So Far?

- 4 OTT Providers / Online Video Distributors
- 8 Content Providers (Network Owners) + NCTA
- Cablevision and Verizon
- Digital Media Association (Microsoft, Apple, Amazon)
- No governments or PEG operators



What You Can Do

- Submit written “ex parte” comments to FCC
- <http://apps.fcc.gov/ecfs/> [also where you can READ existing comments]
- Arrange meetings with Commissioners and staff
- Obtain support from local members of Congress
 - Have them reach out – sooner is better
 - Ds and Rs both important



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