

United States Senate

WASHINGTON, DC 20510

October 9, 2015

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

Dear Chairman Wheeler:

In March 2014, the Federal Communications Commission (FCC) adopted a further notice of proposed rulemaking (FNPRM) to solicit additional comment on whether it should eliminate or modify its network non-duplication and syndicated exclusivity rules (exclusivity rules). On August 12, you wrote that you were putting forth an order that would eliminate both rules. We write to express concern about your proposal to eliminate these long-standing rules in the absence of complementary statutory reform of the compulsory copyright laws.

The cable compulsory copyright license is designed to work in tandem with the FCC's exclusivity rules. As the FCC noted in the 2014 FNPRM, the Copyright Act was amended by Congress to provide a compulsory license under which cable systems may retransmit the signals of all local broadcast stations and distant broadcast stations to the extent that carriage of such distant stations is permitted under FCC rules. Eliminating these rules without making corresponding changes to the compulsory copyright license system will potentially alter the way in which the cable compulsory copyright license is intended to function and disrupt local television businesses and viewing households.

Recognizing the interrelated nature of communications and copyright law in this area, Congress and the FCC have previously worked together with stakeholders to craft a comprehensive and consensus approach to governing the retransmission of broadcast signals and copyrighted content by cable systems. This approach produced a regime that has both successfully fostered the growth of the cable industry and ensured the continued viability of the local broadcast system. To the extent that this regime is now outdated, any reassessment of it should be done in a similarly coordinated and comprehensive manner.

Our committees have long acknowledged the close interplay between the compulsory copyright license system and the Communications Act. We have worked together to reauthorize and amend key provisions of each when called for. We feel it would be premature for the FCC to repeal the exclusivity rules while the current compulsory copyright license regime remains unchanged. We ask that the FCC cooperate with our committees to identify an approach that appropriately balances both copyright and communications regulation.

Sincerely,



CHARLES E. GRASSLEY
Chairman
Committee on the Judiciary



JOHN THUNE
Chairman
Committee on Commerce, Science,
and Transportation



PATRICK LEAHY
Ranking Member
Committee on the Judiciary



BILL NELSON
Ranking Member
Committee on Commerce, Science,
and Transportation

cc: The Honorable Mignon Clyburn
The Honorable Michael O'Rielly
The Honorable Ajit Pai
The Honorable Jessica Rosenworcel