Before the
Federal Trade Commission
Washington, D.C. 20580

Trade Regulation Rule on Unfair
or Deceptive Fees
No. R207011

COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS

I. INTRODUCTION

The National Association of Broadcasters (NAB)\(^1\) hereby submits brief comments in response to the Federal Trade Commission’s rulemaking notice proposing rules that would prohibit companies from omitting mandatory fees from advertised prices and misrepresenting the nature and purpose of fees.\(^2\) The NPRM discusses and solicits comment on consumer fee practices affecting multiple industries, including “telecommunications” (defined to include internet, television, and telephone services).\(^3\) Below, NAB discusses certain fees imposed by multichannel video program distributors (MVPDs) which mislead and confuse consumers.

\(^1\) NAB is the nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.


\(^3\) NPRM at 77427.
II. MVPDS ENGAGE IN ADVERTISING AND BILLING PRACTICES THAT HARM CONSUMERS AND IMPEDE COMPETITION

As the NPRM and commenters have highlighted, prospective MVPD consumers routinely “are confronted with advertised rates that do not include mandatory fees,” including broadcast programming fees, that are not disclosed until well into the consumer’s buying process and are described “in ways that consumers find difficult to understand.”

MVPDs pay for a variety of inputs into their video programming packages that they resell to consumers, including fees for carriage of non-broadcast programming networks and “retransmission consent” payments for carriage of local television broadcast stations. Despite selling video programming packages that are advertised as including local broadcast stations, MVPDs often advertise one price for those packages and then tack on a large, separate “broadcast TV fee,” “broadcast TV surcharge,” or “retransmission fee” which purportedly reflects their retransmission consent payments made to local broadcasters.

According to Consumer Reports, cable company-imposed fees add what amounts to an average 24 percent surcharge on top of the advertised price. This practice is extremely common and used by large and small MVPDs alike. For example:

4 NPRM at 77427; see also Comments of Consumer Reports, FTC-2022-0069-6099, at 2, 5-7 (Feb. 8, 2023) (Consumer Reports Comments) (describing the cable television industry as “the worst offender for charging hidden junk fees” and stating that cable television consumers “are facing a rise and proliferation of company-imposed fees that are buried in the fine print and aren’t clearly disclosed.”).

5 Just as pay TV providers pay fees for the rights to carry non-broadcast programming (e.g., the programming of cable networks like TBS, TNT and FX), they pay fees for the rights to retransmit the signals of local broadcast TV stations, which include both national broadcast network programming (e.g., ABC, CBS, FOX, NBC, Telemundo, Univision, etc.) and the programming created by local stations (e.g., local newscasts).

6 Consumer Reports Comments at 2.
• Charter Communications (Charter) advertises a Spanish and English language programming package containing 140+ channels for $39.99/month. The channel lineup includes local broadcast channels. However, once the consumer selects the package, a $25.75 broadcast surcharge appears, upping the total to $65.74.7

• HBC, a smaller operator serving consumers in Minnesota and Wisconsin, advertises a “Basic TV” subscription package for a price of only $29.99/month. In three different places on its website, HBC makes clear that this package includes local stations, specifically mentioning that the subscriber will receive: “ABC, CBS, C-SPAN, CW+, FOX, PBS, NBC and more.” Once a prospective subscriber puts that package in their cart, however, additional fees including a $29.80 “retransmission fee” appear, more than doubling the price of that package to $62.86.8

• Similarly, Franklin Plant Board (FPB), a smaller operator serving consumers in Kentucky, advertises on its website prices as low as $12.79/month for a package that includes local broadcast channels, but fine print at the bottom of the page states that “An additional $27.25 monthly retrans surcharge will be added to your monthly FPB Cable bill.”9

No consumer would expect MVPD packages claiming to include local broadcast channels to cost more than double the advertised price due to large fees added for those very same stations. The lack of forthright pricing information makes it more difficult for consumers to compare MVPD packages in potential detriment to competition in the pay TV industry, and may well lead consumers to significantly underestimate the total cost of an MVPD service.

Current MVPD practices make it difficult for consumers to accurately assess the value delivered by an MVPD. In addition to omitting fees from advertised prices, MVPDs’ descriptions of broadcast programming fees tend to mislead consumers in several ways. First, the practice of singling out certain programming, including broadcast programming,

7 See Attachment A.
8 See Attachment B.
9 See Attachment C.
while failing to itemize or identify the costs of all other video programming is misleading. Consumers rightly expect pay TV packages that advertise local channels to have the cost of such channels reflected in the base package price. There simply is no consumer-focused rationale for distinguishing retransmission consent payments from all other inputs into the programming packages MVPDs sell to the public, and the practice can lead consumers erroneously to believe that broadcasters are somehow uniquely responsible for the cost of their pay TV service.

Additionally, broadcast programming fees often appear incorrectly to be regulatory fees or taxes rather than a company-imposed fee. Some MVPDs even offer explanations of the fees that reinforce the suggestion that they are required by the government. For example, Charter references the “government” and/or “federal law” nine times in its broadcast programming fee FAQs, claims that it treats broadcast programming differently than cable networks because “[f]ederal law treats them differently,” and states that changes to current law would result in Charter removing the additional broadcast charges.\(^\text{10}\) It would be entirely reasonable for a consumer reading such (mis)information to believe mistakenly that the broadcast programming fee is mandated by the government. These confusing and misleading references to government requirements in connection with broadcast fees disserve both consumers and broadcasters.\(^\text{11}\)


\(^{11}\) NTCA has claimed that broadcasters’ confidentiality terms preclude transparent explanation of retransmission fees. See NPRM at 77427 (summarizing NTCA’s comments). However, such terms do not require MVPDs to use unfair and deceptive drip pricing tactics to attract subscribers or to single out costs for the broadcast programming they resell in ways
III. CONCLUSION

MVPD advertising and billing practices that identify “broadcast TV” fees mislead and confuse consumers, baselessly single out broadcast programming, and make it difficult for consumers to comparison shop among MVPD services. The pay TV industry should cease engaging in these practices.

Respectfully submitted,

NATIONAL ASSOCIATION OF BROADCASTERS
1 M Street SE
Washington, DC 20003
(202) 429-5430

Rick Kaplan
Jerianne Timmerman
Erin Dozier
Emily Gomes

February 7, 2024
Attachment A
Attachment B
Your household may be eligible for a monthly benefit of up to $30 towards your broadband services with the Affordable Connectivity Program.

### HBC TV

**Digital Plus TV**
- 175+ Channels
- Cooking Channel, Discovery Life, Magnolia Network, and many more
- Music Choice Music Channels
- HBC TV 25—local, exclusive programming
- HBC+ Video app
- HBC TV2-Go—stream anywhere, anytime

**Expanded Digital TV**
- 140+ Channels
- A&E, AMC, Bravo, Disney, ESPN, HGTV, History, and many more
- Music Choice Music Channels
- HBC TV 25—local, exclusive programming
- HBC+ Video app
- HBC TV2-Go—stream anywhere, anytime

**Basic TV**
- 70+ Channels
- ABC, CBS, C-SPAN, CW+, FOX, PBS, NBC, and more
- Music Choice Music Channels
- HBC TV 25—local, exclusive programming
- HBC+ Video app
- HBC TV2-Go—stream anywhere, anytime

<table>
<thead>
<tr>
<th>Tier</th>
<th>Channels</th>
<th>Features</th>
</tr>
</thead>
<tbody>
<tr>
<td>Digital Plus</td>
<td>175+</td>
<td>• Cooking Channel, Discovery Life, Magnolia</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Music Choice Music Channels</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• HBC TV 25—local, exclusive programming</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• HBC+ Video app</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• HBC TV2-Go—stream anywhere, anytime</td>
</tr>
<tr>
<td>Expanded Digital</td>
<td>140+</td>
<td>• A&amp;E, AMC, Bravo, Disney, ESPN, HGTV, History</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Music Choice Music Channels</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• HBC TV 25—local, exclusive programming</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• HBC+ Video app</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• HBC TV2-Go—stream anywhere, anytime</td>
</tr>
<tr>
<td>Basic</td>
<td>70+</td>
<td>• ABC, CBS, C-SPAN, CW+, FOX, PBS, NBC, and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Music Choice Music Channels</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• HBC TV 25—local, exclusive programming</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• HBC+ Video app</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• HBC TV2-Go—stream anywhere, anytime</td>
</tr>
</tbody>
</table>
Add TV

Below are the available services for your location.

Basic TV
- More channels
- ABC, CBS, C-SPAN, CW, FOX, PBS, NBC, and more
- Music Choice, TV Pre-Paid, and HBO® Video app included

$29.99 / Month

Add to Cart
### My TV

Below are the active services on the account and other available services being offered in your area.

<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic TV</td>
<td>$29.99</td>
<td>ABC, CBS, C-SPAN, CNN, FOX, PBS, NBC, and more</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mobile, Ultra HD streaming, and HBO app included</td>
</tr>
</tbody>
</table>

Additional customization may be available during the checkout process.
Attachment C
Limited Cable | $12.79

FPB’s Limited Cable offers local broadcast networks such as FOX, CBS, NBC, and ABC. Watch local Frankfort programming and events brought to you by FPB’s Cable 10 including Game of the Week, Around 10, government meetings, and more. You’ll also have access to educational programming from KET, KET2, KETKY, CSPAN1, CSPAN2, CSPAN3, and NASA. Whether you want to shop with QVC, be aware of the weather with Weatherscan, or provide family entertainment with MeTV, FPB Limited Cable has plenty of channels to choose from.

An additional $27.25 monthly retrans surcharge will be added to your monthly FPB Cable bill.

QAM LINEUP

CHANNEL LINEUP

Standard def. requires DTA, QAM tuner, FPB advanced set top or cable card. HD requires FPB HD advanced set top or cable card. VOD requires FPB advanced set top. See options below.

FPB SPORTS PLUS

FPB Sports Plus offers subscribers nine new programming networks covering a wide range of sports. This exciting offering is only $7/mo.

ORDER SPORTS PLUS
CABLE CHANNEL LINEUP

**LIMITED** $12.79
channels 2-30
02 PROGRAM GUIDE
03 503 NBC (WAVE 3)
04 FBP MARKETPLACE
05 505 FOX (WKYT 60)
06 506 CBS (WTVK 27)
07 507 NBC (WKEX 18)
08 508 ABC (WTVQ 36)
09 509 QVC
10 510 CABLE 10
11 511 ABC (WHAS 11)
12 512 CBS (WLEX 18)
13 513 CW (CWKY)
14 514 CS PAN
15 515 CS PAN
16 516 CS PAN
17 NASA GA
18 518 MN NETWORK (MyK)
19 WEATHERSCAN
20 LEASED ACCESS
21 521 CO2 TV (WLJC 65)
22 522 ION (WUPX 67)
23 KET KY
24 524 KET
25 526 CHARGE TV
27 Metv
28 ANTEENNA TV
29 Gitv
30 REWIND TV

**CLASSIC** $76.60*
channels 2-98
31 531 ESPN
32 532 ESPN
33 533 ACC NETWORK
34 534 SEC NETWORK
35 535 FOX SPORTS 1
36 536 BALLY SPORTS OHIO
37 537 MLB NETWORK
38 539 GOLF CHANNEL
39 540 OUTDOOR
41 541 FANDUEL TV
43 543 FOX BUSINESS
44 544 FOX NEWS
45 545 CNN B
46 546 HLN B
47 547 CNBC B
48 548 MSNBC B
49 549 WEATHER B
50 550 NEWSATION
51 551 TBS B
52 552 TNT B

**PREFERRED** $87.10**
channels 2-249
100 600 REELZ
101 601 NAT GEO WILD
104 604 DESTINATION AMERICA
105 605 SCIENCE
106 606 AMERICAN HEROES CH
107 607 FYI

**STINGRAY MUSIC**
200 HIT LIST
201 POP ADULT
202 SWINGING STANDARDS
203 JUKEBOX OLDIES
204FLASHBACK 70S
205 EVERYTHING 80S

**PROGRAM GUIDE**
GritTV
ANTENNA TV
MeTV
CHARGE TV
KET2
KET
ION (WUPX 67)
COZI TV (WLJC 65)
LEASED ACCESS
WEATHERSCAN
NASA/GA
CSPAN 3/GA
CSPAN 1
ABC (WHAS 11)
CABLE 10
NBC (WLEX 18)
CBS (WKYT 27)
FANDUEL TV
MLB NETWORK
ACC NETWORK
ESPN2
ESPN
TBS
NEWSNATION
WEATHER
CNBC
HLN
CNN

**PAY PER VIEW**
401 LIVE EVENT PPV

**CABLE CHANNEL LINEUP**

**HD PLUS** $7*
770 MOTOR TREND
771 MGM HD
774 MTV LIVE
775 NFL RED ZONE
776 SONY MOVIE CH
777 HDNET MOVIES

**SPORTS PLUS** $7*
786 OUTSIDE TV
787 MAVTV
788 WORLD FISHING NETWORK
789 NEXT LEVEL SPORTS
790 YES
791 UNIVERSITY COLLEGE SPORTS - ATLANTIC
792 UNIVERSITY COLLEGE SPORTS - CENTRAL
793 UNIVERSITY COLLEGE SPORTS - PACIFIC
794 PAC 12
796 MLB STRIKE ZONE

**PREMIUM**
300 700 HBO E
301 HBO W
302 HBO2 E
303 HBO W
304 HBO SIG E
305 HBO SIG W
306 HBO FAMILY E
307 HBO FAMILY W
310 710 CINEMAX E
311 CINEMAX W
312 MORE MAX E
313 MORE MAX W
320 720 SHOE E
321 SHOE2 E
322 SHOEBET
323 SHO EXTREME E
324 SHOWCASE
325 SHO NEXT
326 SHO FAM ZONE
327 SHO WOMEN

**HD channel numbers listed in blue.**
**HD requires FBP HD advanced set top or cable card.**

<table>
<thead>
<tr>
<th>Package</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>HBO Max</td>
<td>$15.00</td>
</tr>
<tr>
<td>Showtime/TMC</td>
<td>$15.00</td>
</tr>
<tr>
<td>Starz</td>
<td>$15.00</td>
</tr>
</tbody>
</table>

Order any 2 premium services and get a $3 discount.
Order any 3 premium services and get a $6 discount.
Order all premium services for only $47.00.

**Video on Demand (VOD)** requires FBP advanced set top.
**Watch TV Everywhere (WTE)** requires FBP advanced set top.
**Requires FBP preferred cable** and FBP HD advanced set top or cable card.

Visit us online at www.fpb.cc
Call Customer Service at 502-352-4372

An additional $27.25 monthly retransmission surcharge will be added to your monthly FBP Cable bill.

Deposits may be required. Limited service area. Taxes and fees may apply.

An additional $27.25 monthly retransmission surcharge will be added to your monthly FBP Cable bill.

Deposits may be required. Limited service area. Taxes and fees may apply.