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FCC Asked to Cut Leased-Access Rate

Programmers Seek 15-Cent Sub Fee, Replacing Formula

By Ted Hearn -- Multichannel News, 10/29/2007

Washington— In a recent private meeting with Federal Communications Commission chairman Kevin Martin, public-interest groups sought adoption of new rules designed to reduce the rates that third-party programmers pay to lease channel capacity from cable system operators.

The call for a new leased-access payment formula came from representatives of the Media Access Project and Public Knowledge in an Oct. 18 meeting with Martin, his media adviser, Michelle Carey, and Media Bureau chief Monica Desai, according to FCC records.

In the meeting, MAP senior vice president Harold Feld endorsed a rule that would determine a single, national leased access rate “using price information from Los Angeles and New York City, currently the two most competitive leased-access markets.”

Leased-access programmers can buy time from cable operators as required under federal law and FCC rules. Large-capacity cable systems need to set aside 15% of their channels for leased access. Operators may fill unleased channels with their own programming.

FCC-set rates are based on a formula called the highest implicit fee.

In rough terms, it is derived by taking the retail price of a programming tier and subtracting the aggregate wholesale cost of the programming.

Dividing the result by the number of channels in their tier produces the per-month, per-subscriber, leased-access fee.

MAP wants the FCC to scrap the formula and impose a national rate of 15 cents per month, per subscriber, as the amount cable operators may charge leased access programmers.

“We would welcome it,” said Charlie Stogner, president of the Leased Access Programmers Association in Jackson, Miss.

In 1984, Congress imposed leased-access obligations on cable operators. It hasn’t been a raging success, because leased access has been at odds with the pay TV business model, which is largely predicated on programmers receiving payment from their distributors.

For many years, Stogner and other leased-access programmers have complained to the FCC that cable incumbents have been difficult negotiators, in part, because operators are allowed to fill unused leased access channels with their own programming.

Comcast, by contrast, has said there are no compelling arguments for improving the lot of leased-access programmers, insisting that the FCC’s current rate formula yields a below-market rate for cable operators.

To Comcast’s point: leased-access vendors themselves call the system an advertising bargain. One such vendor, on a site called Leasedaccessinfo.com, claims that while rates vary from system to system, “Generally leased access is about 10 cents on the dollar based on the regular cost of advertising.” Stated another way, the time buy for a half-hour program via leased access is equivalent to a 30-second spot on cable.

In their discussion with Martin, the public-interest groups said that if New York and Los Angeles were not adequate proxies for producing a new leased-access rate, the FCC should consider using “the median rate paid by the lowest 25% of programmers to a set rate.”

They also urged Martin to block cable companies from requiring leased access programmers to pay fees based on the entire size of a particular cable system. The FCC, Feld said, should make cable operators “lease parts of large systems, perhaps by allowing ZIP code-specific access targeting.”

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