

# Taxation of Interstate Broadcasters in Oregon



## Background and Apportionment Methods



# Brief Review of Terms

- **Nexus**

- When a corporation has a business connection to a state and the business can be subject to the state's income taxes

- **Apportionment**

- Method used to calculate what % of federal income a state can tax
  - Federal taxable income
    - Amount of income subject to tax within the US
  - State taxable income
    - Amount of income subject to tax within a state// share of federal income that a state taxes

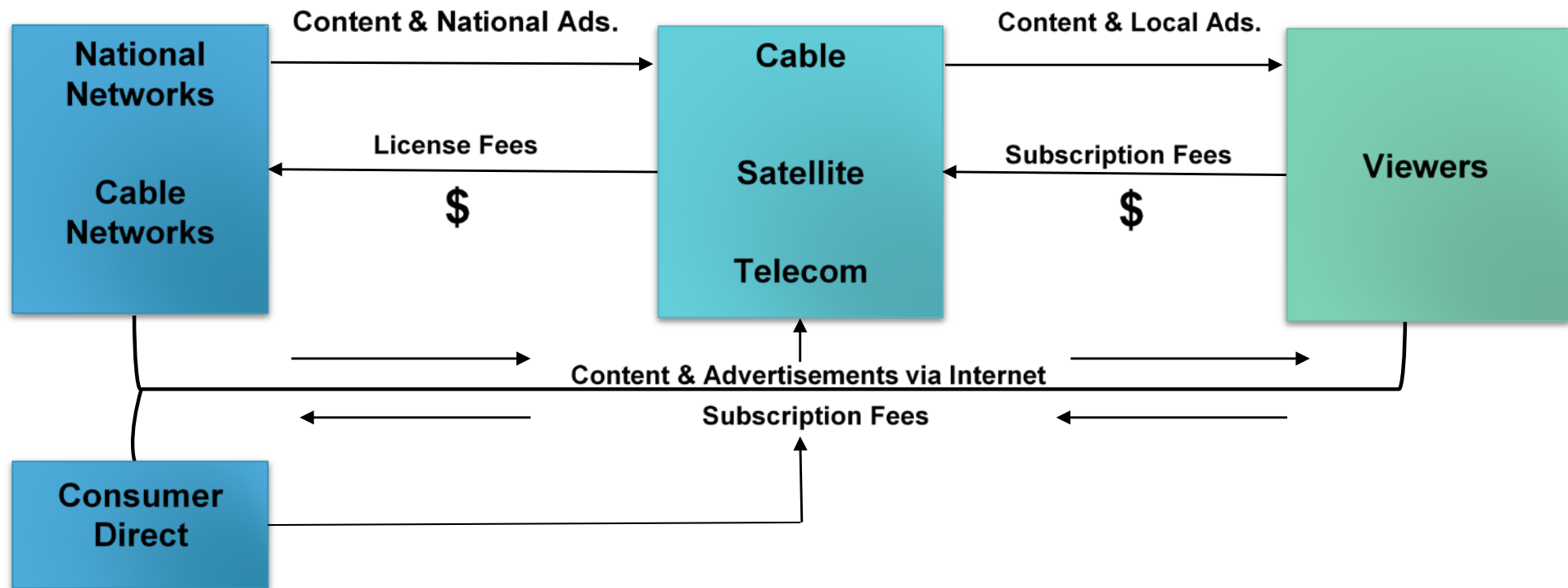
- **Single Sales Factor Calculation**

- Federal Taxable Income \* (**OR sales**/US sales)= Oregon taxable income





# Industry Description



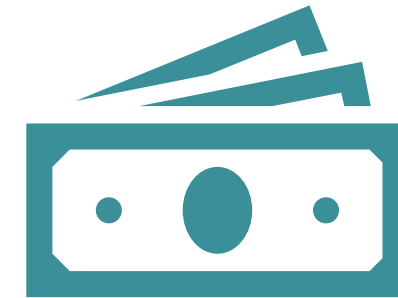


# Key Details



## Who is an interstate broadcaster?

ORS 314.680(1) “Broadcasting” means the activity of transmitting **any one-way electronic signal** by .... conduits of communications.



## Which income is apportioned? *Comcast Case*

- **All income** not specifically addressed in statute
  - Excludes tangible personal property and real property





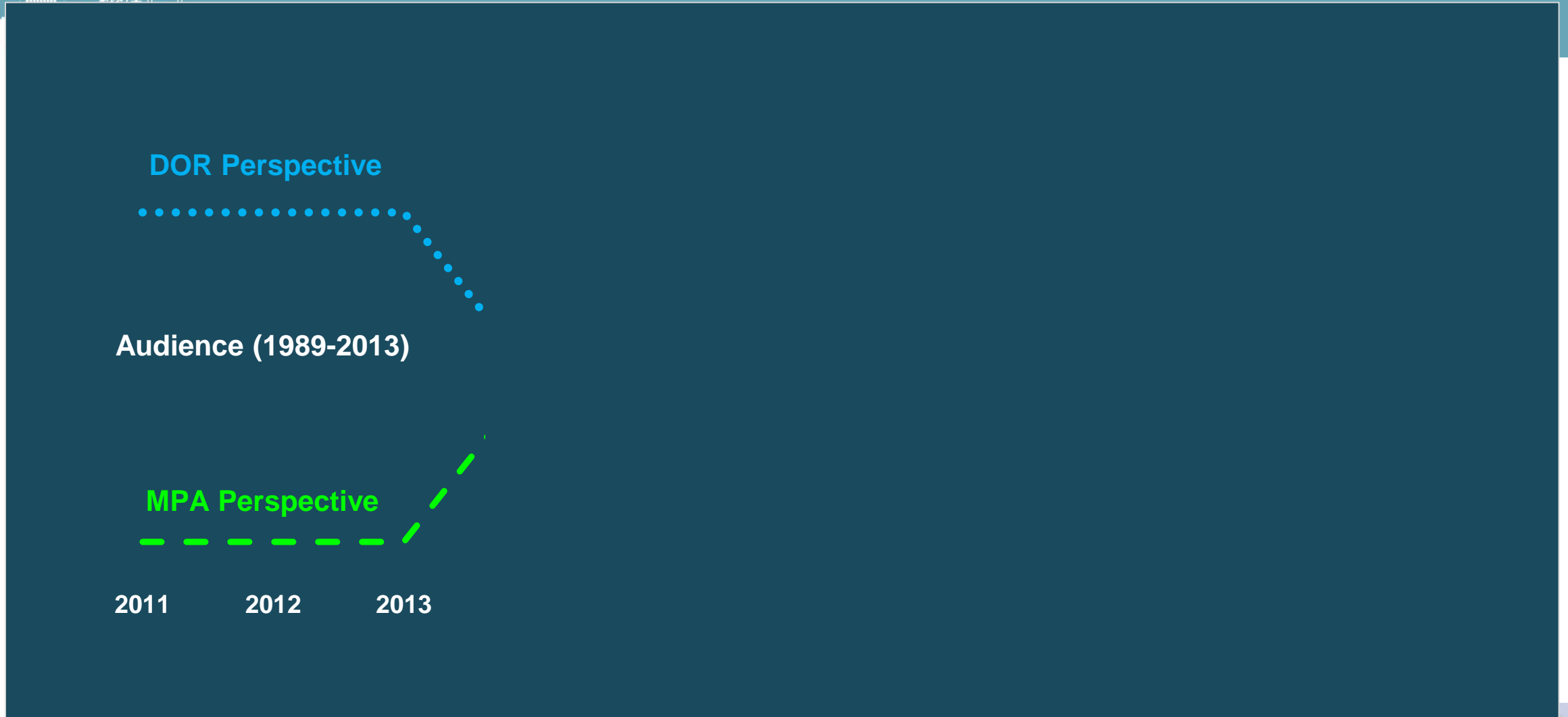
# Broadcasting Definition

- “Broadcasting” means the activity of transmitting **any one-way electronic signal**
- Expected to encapsulate an increasing number of industries as technology improves
- Policy intent in today’s environment?



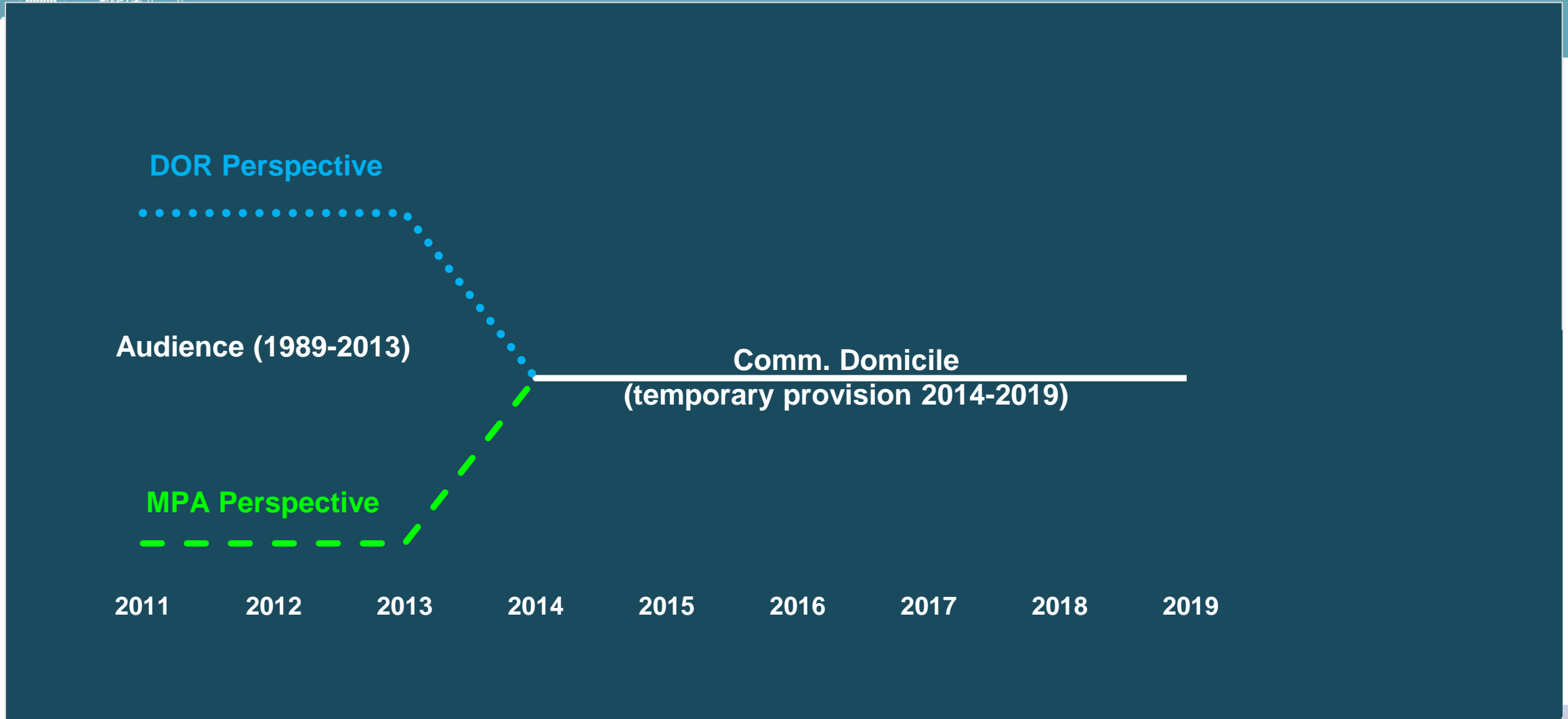


# Policy History



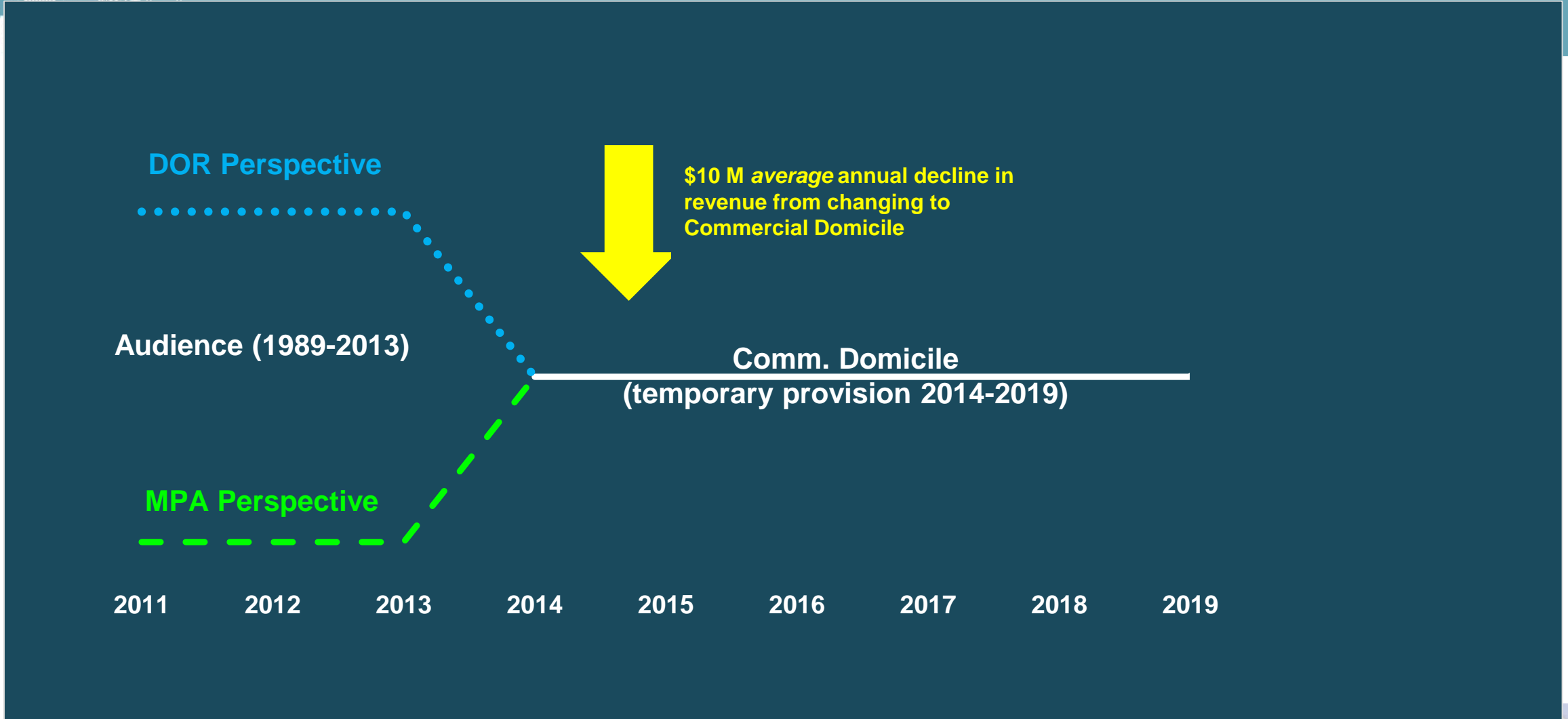


# Policy History





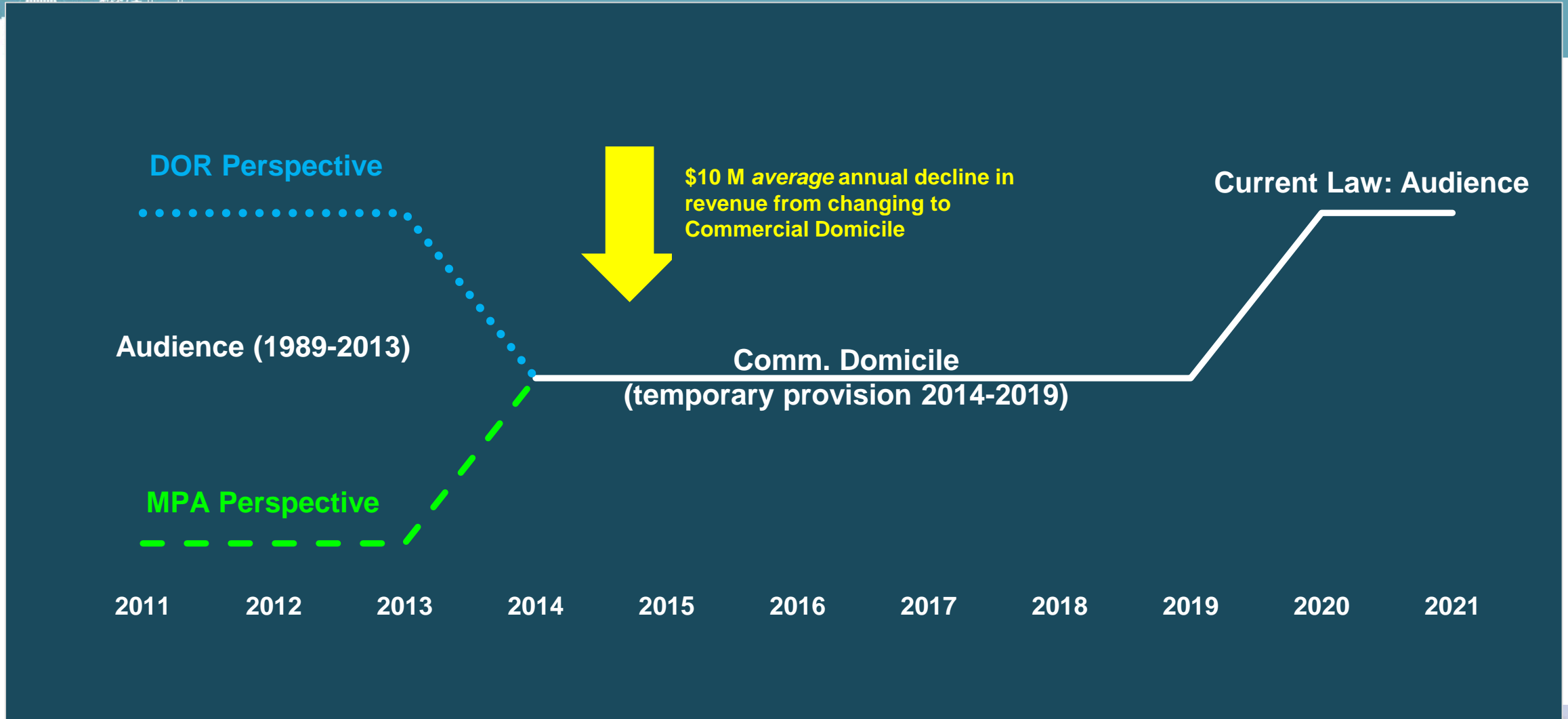
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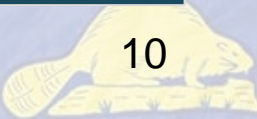
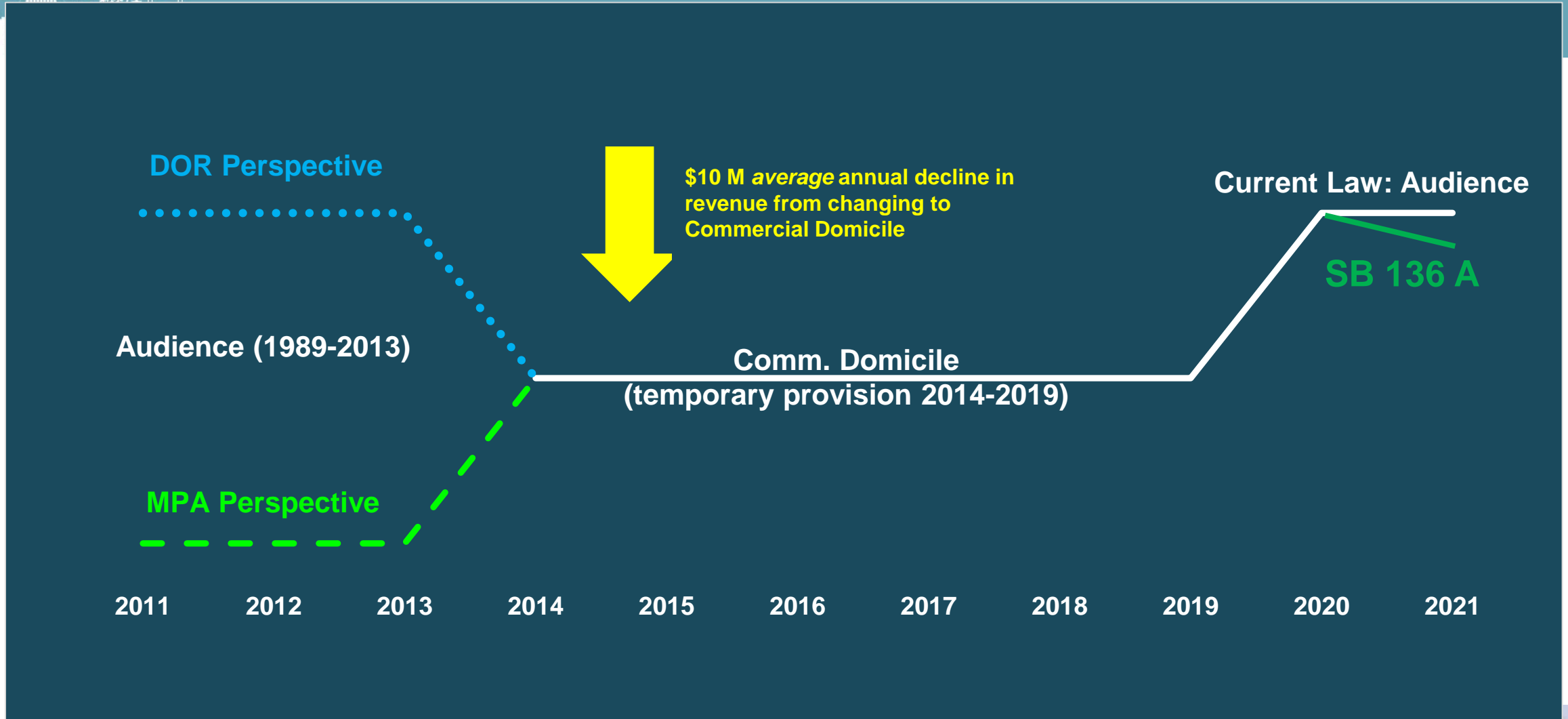


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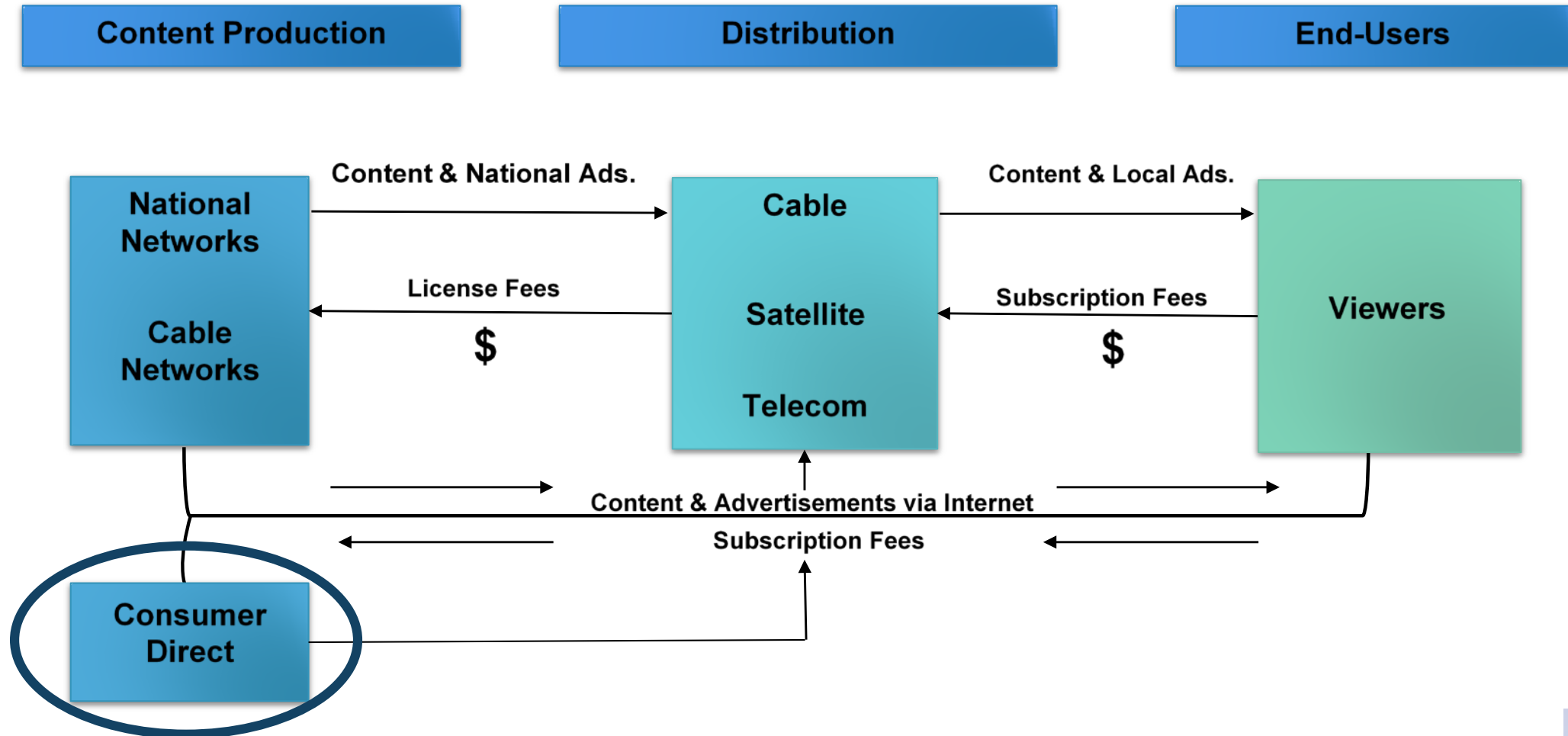


# Policy History





# Ongoing Industry Change





# Current Baseline

- Current law is **audience method**
- **Baseline**
  - In absence of legislation, audience method will be used
    - 2020 session ended without broadcaster legislation passed in House
- **Policy**
  - Changes apportionment method for *some* receipts
  - Changes sales to which apportionment method applies
    - *Election* to select current law application of apportionment method





# SB 136 A by Section

Section	Description
1	Conforming language.
2	<b>Defines broadcasting, total gross receipts. Describes apportionment options for broadcasters.</b>
3	Removes obsolete statute references from bill.
4	Repeals old broadcaster statutes.
5	Defines applicability to tax years beginning on or after January 1, <b>2020</b> .
6	Effective date.





# Apportionment Calculation

- Current Law
  - Statute Audience ratio: Oregon audience / total U.S. audience
  - OAR 150-314-0465
    - If ratings numbers are unavailable or inappropriate for some reason
      - Broadcast population in Oregon relative to U.S.
      - Cable system population in Oregon relative to U.S.
- SB 136 A
  - Directs taxpayer to use 0.6% as the numerator in the apportionment ratio **only in the cases of licensing to or advertising on subscription services**
  - Audience method used for other broadcasting sales
  - Option to apply audience method to all receipts\* (similar to Comcast ruling, \*excluding TPP and RP)





# Estimated Revenue Impact

Policy	Revenue Policy Applies To	Revenue Impact
Audience method	Broadcasting sales only (MB sourcing otherwise)	-\$0.2 M
Audience method	Total gross receipts	No Change
0.6%	Licensing to or advertising on subscription services	-\$0.4 M

## Notes

- Expected annual revenue received under current law from broadcasters is roughly \$10 M.
- When the audience method applies only to broadcasting sales, market-based sourcing is the default for other intangible sales of the taxpayer.



# Additional questions?

