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June 20, 2016

By ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Notice of Ex Parte Communication

**MB Docket No. 15-216
Implementation of Section 103 of the STELA Reauthorization
Act of 2014 -- Totality of the Circumstances Test**

**MB Docket No. 16-41
Promoting the Availability of Diverse and Independent Sources
of Video Programming**

Dear Ms. Dortch:

On June 15, 2016, Anne Lucey of CBS Corporation, Susan Fox and Jodi Wallace of The Walt Disney Company, Jared Sher of 21st Century Fox, Inc. ("Fox"), Victoria Jeffries and Christopher Wood, both of Univision Communications Inc., and I (the "Broadcaster Representatives") met with the Commission personnel listed below as additional recipients of this letter. Separately, on June 16, 2016, the Broadcaster Representatives, together with Michael Beder of our office but without Mr. Wood, met with Jessica Almond, Legal Advisor to Chairman Wheeler.

In both meetings, the Broadcaster Representatives addressed allegations by certain distributors that broadcasters are able to, and do, engage in what these distributors characterize as "forced" bundling of television stations and affiliated non-broadcast programming networks in retransmission consent negotiations. We demonstrated that allegations that broadcasters can compel carriage of their affiliated non-broadcast networks defy empirical marketplace realities. We also explained that treating bundled programming offers as *per se* violations of the "good faith" bargaining obligation would diminish competition and harm diversity.

First, the Broadcaster Representatives presented a summary of 2015 pay TV subscribership data compiled by SNL Kagan (attached hereto as Attachment A). Among other things, these data demonstrate that not a single broadcaster-affiliated cable network achieves ubiquitous cable distribution. The data also demonstrate that networks affiliated with broadcasters, and in particular with the Broadcaster Representatives, have a variety of

COVINGTON

Marlene H. Dortch
June 20, 2016
Page 2

penetration levels -- clearly belying distributors' claims that broadcasters have the power to compel carriage of their non-broadcast services through bundling with television stations.

We also presented data specifically with respect to certain Fox networks demonstrating the absence of a meaningful correlation between retransmission of a local Fox-owned television station or carriage of a Fox regional sports network ("RSN"), on the one hand, and carriage of other Fox networks, on the other. *See* Attachment B. These proprietary data demonstrate that penetration rates for Fox cable networks vary widely -- from significantly above the national average to essentially zero -- among both large and small distributors irrespective of whether their service areas encompass a Fox-owned television station or RSN. We explained that these data, although specific to Fox, are representative of the experience of the other Broadcaster Representatives.

Finally, the Broadcaster Representatives explained that, in any case, behavior such as "forced" bundling is prohibited by the existing good faith bargaining rules. *See* 47 C.F.R. § 76.65 (b)(iv) (refusal "to put forth more than a single, unilateral proposal" is presumptive evidence of bad faith). There is therefore no need for the Commission to modify its rules in order to address distributors' allegations.

COVINGTON

Marlene H. Dortch
June 20, 2016
Page 3

This letter is being submitted electronically pursuant to Section 1.1206(b) of the Commission's Rules. Please contact the undersigned if you have any questions about this submission.

Respectfully submitted,

**CBS Corporation, The Walt Disney
Company, 21st Century Fox, Inc., and
Univision Communications Inc.**

By: /s/
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Attachment A

PAY TV NETWORK SUBSCRIBERS (in millions)

Network Name	2015 Subscriber Estimate
C-SPAN (US)	98.7
Food Network (US)	95.2
Discovery Channel (US)	94.6
USA (US)	94.5
TBS (US)	94.5
CNN (US)	94.3
Cartoon Network (US)	94.2
History (US)	94.2
Disney Channel (US)	94.0
Lifetime Television (US)	94.0
A&E (US)	93.8
HLN (US)	93.7
AMC (US)	93.6
HGTV (US)	93.6
TNT (US)	93.2
FX Network (US)	93.0
TLC (US)	92.7
E! (US)	92.6
FOX News Channel (US)	92.6
Syfy (US)	92.5
Nickelodeon/Nick At Nite (US)	92.2
Freeform (US)	92.2
MSNBC (US)	92.2
MTV (US)	92.2
Spike TV (US)	92.1
Comedy Central (US)	92.0
Animal Planet (US)	91.7
ESPN (US)	91.4
ESPN2 (US)	91.3
CNBC (US)	91.2
TV Land (US)	91.0
VH1 (US)	90.4
Hallmark Channel (US)	90.4
Bravo (US)	90.0
truTV (US)	89.7
Travel Channel (US)	88.8
The Weather Channel (US)	88.1
National Geographic Channel (US)	87.9
WE tv (US)	86.5
BET (US)	86.3
Investigation Discovery (US)	85.0
CMT (US)	84.8
FOX Sports 1 (US)	84.6

NBCSN (US)	83.4
FOX Business Network (US)	83.1
LMN (US)	81.1
TCM (US)	80.7
INSP (US)	80.6
OWN: Oprah Winfrey Network (US)	79.6
GSN (US)	79.2
FXX (US)	79.0
Disney XD (US)	77.7
MTV2 (US)	77.3
Oxygen Network (US)	77.1
BBC America (US)	77.0
Golf Channel (US)	77.0
Bloomberg Television (US)	74.5
Disney Junior (US)	74.2
POP (US)	73.7
Nick Jr./NickMom (US)	73.2
WGN America (US)	72.3
Science (US)	72.2
ESPNU (US)	71.3
IFC (US)	71.1
Viceland (US)	70.5
TeenNick (US)	70.5
NFL Network (US)	69.9
ESPNNews (US)	69.6
FYI (US)	69.5
FUSE (US)	69.0
Esquire Network (US)	68.5
Galavision (US)	67.4
Discovery Family Channel (US)	67.0
MLB Network (US)	66.3
ReelzChannel (US)	66.3
UP (US)	66.2
Velocity (US)	65.8
Cooking Channel (US)	64.8
Nicktoons (US)	64.4
Hallmark Movies & Mysteries (US)	62.2
BTN (US)	62.0
SEC Network (US)	61.9
DIY Network (US)	61.4
Al Jazeera America (US) *	61.1
SundanceTV (US)	59.6
Great American Country (US)	58.2
American Heroes Channel (US)	58.0
Nat Geo WILD (US)	57.7
VH1 Classic (US)	56.4
Sprout (US)	56.4
TV One (US)	56.1
Destination America (US)	56.0

CBS Sports Network (US)	55.0
NBA TV (US)	53.9
FXM (US)	53.6
Nick 2 (US)	51.6
CENTRIC (US)	51.4
FOX Sports 2 (US)	51.0
FOX College Sports (US)	50.3
BabyFirstTV (US)	49.6
LOGO (US)	49.6
Pivot (US)	48.5
Univision Deportes (US)	47.2
RFD-TV (US)	47.1
Boomerang (US)	46.8
Discovery Life Channel (US)	46.7
AXS TV (US)	46.1
Ovation (US)	46.1
NBC UNIVERSO (US)	43.2
MTV Hits (US)	42.5
Fusion (US)	42.3
CNBC World (US)	41.9
R&R TV (US)	40.3
El Rey Network (US)	40.2
Tr3s (US)	38.3
Chiller (US)	38.3
Outdoor Channel (US)	37.6
CMT Music (US)	37.1
FM (US)	36.7
MTV Live (US)	36.5
BBC World News (US)	36.5
Tennis Channel (US)	36.5
NHL Network (US)	35.2
MAVTV (US)	35.2
BET Jams (US)	34.0
BET Soul (US)	33.7
Smithsonian Channel (US)	33.6
Sportsman Channel (US)	32.9
Revolt TV (US)	32.2
RLTV (US)	32.0
ASPiRE (US)	31.5
Universal HD (US)	31.5
beIN SPORTS (US)	25.6
ESPN Classic (US)	24.9
Cloo (US)	24.7
Crime & Investigation Network (US)	23.6
AWE (US)	22.6
Military History Channel (US)	22.5
FamilyNet (US)	22.4
BET Gospel (US)	21.9
MGM HD (US)	19.3

Z Living (US)	19.0
BlueHighways TV (US)	17.7
CNN International (US)	17.4
The Africa Channel (US)	16.2
ESPN Deportes (US)	16.1
Lifetime Real Women (US)	15.9
Pac-12 Network (US)	14.7
FOX Deportes (US)	14.3
Justice Central (US)	14.1
TheBlaze TV (US)	13.5
Outside Television (US)	12.6
Go!TV (US)	11.3
Sony Movie Channel (US)	10.1
World Fishing Network (US)	8.1
HDNet Movies (US)	8.0
WAPA América (US)	7.5
Youtoo America (US)	7.4
CNN en Español (US)	7.0
Discovery en Español (US)	6.7
History en Español (US)	6.6
FOROtv (US)	6.4
Univision Deportes Dos (US)	6.4
Univision tlnovelas (US)	6.4
mtvU (US)	6.1
FOX Life (US)	5.7
Nat Geo Mundo (US)	5.5
Discovery Familia (US)	5.5
HTV (US)	5.4
Mnet (US)	5.4
beIN SPORTS en Español (US)	5.2
Bandamax (US)	4.7
ShortsHD (US)	4.5
Pasiones (US)	4.4
Nuestra Tele (US)	3.7
MEXICANAL (US)	3.7
Canal Sur (US)	3.7
CentroAmerica TV (US)	3.7
Caracol TV (US)	3.2
Telefe International (US)	3.0
De Película (US)	2.9
TV Chile (US)	2.8
Televisión Dominicana (US)	2.6
Sur Peru (US)	2.4
De Película Clásico (US)	2.4
Telehit (US)	2.3
BET Hip-Hop (US)	2.2
TV Venezuela (US)	2.1
Tempo (US)	1.9
Latinoamérica Televisión (US)	1.9

Ecuavisa (US)	1.9
¡Sorpresa! (US)	1.6
estudio5 (US)	1.5
TyC Sports International Channel (US)	1.5
Ritmoson Latino (US)	0.7
Antena 3 (US)	0.6

Source: SNL KAGAN

FOX NETWORKS DISTRIBUTION COMPARISON**Carriage Indexed to National Average (avg = 100)**

<u>Network</u>	<u>Large Distributor</u>	<u>Large Distributor</u>	<u>Small Distributor</u>	<u>Small Distributor</u>	<u>Small Distributor</u>
FS1	94	97	107	85	108
FS2	11	106	-	25	36
FX	91	99	102	81	103
FXX	98	91	112	88	115
FXM	51	120	99	68	93
Nat Geo	92	90	103	82	105
Nat Geo Wild	85	117	96	-	92
RTC Footprint	105	104	0	54	0
RSN Footprint	39	130	137	0	0