

September 29, 2014

VIA ECFS

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

RE: Comments of LIN Television Corporation d/b/a LIN Media
MB Docket No. 14-57; MB Docket No. 14-90
Public Notice, DA 14-1383 (rel. September 23, 2014)
Confidentiality of Retransmission Consent Agreements

Dear Madam Secretary,

LIN Television Corporation d/b/a LIN Media ("LIN") hereby submits its comments in response to the above-referenced Public Notice.¹ These comments are timely filed.

LIN appreciates that the Commission's staff has recognized concerns of broadcasters and other programmers regarding the highly sensitive nature of retransmission consent and other programming agreements by issuing the Public Notice. LIN was among the broadcasters who suggested by letter dated September 11, 2014, which was attached to the Public Notice ("Sept. 11 Letter"), that the Commission review materials in the possession of the U.S. Department of Justice, rather than distribute them without redactions to large numbers of individuals in the instant proceedings.

LIN responds to the Commission's questions in the Public Notice below by a) explaining how LIN's everyday actions demonstrate the highly sensitive nature of retransmission consent agreements, b) describing potential deficiencies in existing confidentiality procedures, and c) supporting certain proposals described in the Sept. 23 *Ex Partes* (as defined in the Public Notice).

Retransmission Consent Agreements Are Extremely Sensitive

LIN treats retransmission consent agreements in the category of its most highly sensitive corporate documents. Access to the entirety of LIN's retransmission consent agreement database is limited to only a few people who are engaged in negotiation, monitoring, and enforcement of these agreements. Other than these few individuals, LIN only provides certain financial terms to its highest ranking corporate officers and the board of directors of its corporate parent. Even those individuals, though, don't have access to the entire database. Notably, LIN does not share retransmission consent agreements or rate information with its station General Managers or other station-level employees. Indeed, LIN rarely shares its retransmission consent agreements or rate information even with outside counsel, who do not have access to LIN's database of retransmission consent agreements. LIN firmly believes that a wider distribution of competitively sensitive rate information could lead to leakage, even by those that have the best of intentions. That is why LIN maintains such tight control of those people that can receive retransmission consent rate information.

¹ Public Notice, Media Bureau Seeks Comment on Issues Raised by Certain Programmers And Broadcasters Regarding the Production of Certain Documents in Comcast-Time Warner Cable-Charter and AT&T-DirectTV Transaction Proceedings, MB-Docket Nos. 14-57, 14-90, DA 14-1383 (rel. September 23, 2014) ("Public Notice").

Existing Confidentiality Protections are Insufficient for Retransmission Consent Terms

LIN notes that there are a large number of parties to the above-referenced transaction applications. By numbers alone, the amount of people who would have access to highly sensitive competitive information without redaction under the existing proposed confidentiality protections are staggering. Even with the purest of motives, each additional individual who has access to this highly sensitive information increases the risk of improper disclosure, whether intentional or not.²

And, that leakage, even if inadvertent or subconscious, can have a grave effect on the marketplace. The disclosure of highly sensitive price information can set “ceilings” or “floors” on what parties may be willing to pay or be paid (depending on the nature of the information and the party).³

LIN Supports Greater Confidentiality than Existing Procedures

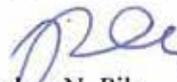
As described in the Sept. 11 Letter, LIN believes that the Commission can have adequate access to competitively sensitive terms by reviewing documents located at the U.S. Department of Justice. Should such an option not be available, LIN supports the greatest protection that the Commission feels it can provide for this information.

No matter which option is chosen, LIN believes that there should be the right of objection for the programmer (*e.g.*, broadcaster) prior to review of the programmer’s materials by anyone outside the FCC. In addition, any review should be done on the FCC’s premises or a mutually agreed upon third party location where the programmer can have someone present and no copying, notes, or taking of images would be allowed.

Conclusion

In conclusion, LIN has shown by its actions – not just words – the competitive sensitivity of retransmission consent terms by its extensive controls on its own internal dissemination. LIN therefore is concerned by large numbers of people having access to non-redacted competitively sensitive terms under existing procedures. LIN prefers that the Commission apply the highest degree of confidentiality to this information. In any event, LIN believes that programmers should have a direct means to object prior to dissemination of their highly confidential information and that those who view such information should do it under strict procedural controls (*e.g.*, location, redaction and ban on copying).

Very truly yours,



Joshua N. Pila

² See, *e.g.*, Letter from Mace Rosenstein to Marlene H. Dortch, dated September 23, 2014 in MB Docket Nos. 14-57, 14-90, at p. 2) “These individuals therefore would be in a position to take into account in the context of current or future negotiations -- whether subliminally or purposeful . . .”.

³ See, *e.g.*, Response Brief of Fisher Communications, Inc., received September 11, 2013 (available at <https://www.courts.wa.gov/content/Briefs/A02/455773%20Respondent's.pdf>) (last visited September 24, 2014).

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