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July 22, 2015

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20544

Notice of *Ex Parte*  
Communication  
MB Docket No. 1071

Dear Ms. Dortch:

On June 20, 2015, Susan Fox, Vice President, Government Relations, The Walt Disney Company, Austin Gaddis, a summer intern in Ms. Fox's office, and the undersigned counsel to the ABC Television Affiliates Association, met with the following officials of the Commission to discuss the *Notice of Proposed Rulemaking* in the above-referenced docket concerning the Commission's television broadcast program exclusivity rules: William Lake, Chief of the Media Bureau; Michelle Carey, Deputy Chief of the Media Bureau; Kathy Berthot, Attorney Advisor, Media Bureau; and Susan Aaron, Attorney, Office of the General Counsel.

Ms. Fox and the undersigned affirmed their respective clients' support for retention of the Commission's network non-duplication and syndicated program exclusivity rules for the reasons stated in detail in their client's respective pleadings earlier filed in the above-referenced proceeding, with specific reference to the following:

- The Commission's program exclusivity rules were originally enacted pursuant to the Commission's statutory mandate to foster a system of *local* television broadcast service, and, although the various means of distribution of video programming have changed since these rules were originally adopted, the core Congressional statutory mandate to the Commission to assure a system of *local* television broadcast service has not.
- In the absence of the ability by local television stations to promptly and efficiently enforce the program exclusivity they acquire for national network and syndicated programming, the nation's television broadcast service of *local* news, weather, public affairs, political, public safety, sports and other *local* programs cannot be economically sustained to the detriment of viewers in local markets throughout the country.
- The viewers and stations most acutely affected by repeal would be small, rural market stations and their viewers—in particular, those located adjacent to larger urban markets;
- The program exclusivity rules are efficient, effective and virtually self-enforcing. The rules assure a *uniform* national policy of local broadcast service and do not impose a material expense or burden upon the Commission, viewers, or the affected parties.
- Repeal of the rules would likely lead to service disruptions for viewers resulting from protracted and expensive contract disputes between cable companies and broadcast stations and a patchwork of potentially inconsistent court decisions—all contrary to viewer interests.
- Indeed, in the absence of these rules, local television stations would not have an effective or reliable legal remedy under copyright or contract law to enforce the program rights they acquire from their network and other program providers. Accordingly, repeal of the rules would, essentially, deprive *local* stations of any ability to enforce against cable systems the program rights they negotiate, acquire, and pay for in arms-length transaction in a highly competitive video distribution market.
- If it modifies or repeals the program exclusivity rules, the Commission should grandfather existing agreements, as it has frequently done in other contexts, and defer the effective date of repeal until the expiration of each station's existing program license and network affiliation agreement. Although the duration of network affiliation agreements varies from network to network and station to station, the term of many current affiliation agreements is five years or more.

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- If it modifies or repeals its program exclusivity rules, the Commission should classify as a violation of the Commission's "good faith" negotiation requirement the failure of a MVPD to honor a local broadcast station's contractual program exclusivity contractual rights of which the cable system has actual knowledge.

If you should have any questions in connection with this matter, it is respectfully requested that you communicate with this office.

Very truly yours,



Wade H. Hargrove  
Counsel to the ABC Television  
Affiliates Association

WHH:mcn

cc: William Lake  
Michelle Carey  
Kathy Berthot  
Susan Aaron  
Susan Fox  
Austin Gaddis