

July 23, 2015

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

Re: Notice of Ex Parte Communication, MB Docket No. 10-71

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, attached please find a letter sent via email from Rick Kaplan of the National Association of Broadcasters to Bill Lake of the Media Bureau concerning the above-referenced proceeding.

Respectfully submitted,



Erin L. Dozier
Senior Vice President and Deputy General Counsel
Legal and Regulatory Affairs

Enc.

cc: Bill Lake, Michelle Carey, Nancy Murphy, Mary Beth Murphy, Steven Broeckaert,
Diana Sokolow, Raelynn Remy, Kathy Berthot



July 23, 2015

William Lake
Chief, Media Bureau
Federal Communications Commission
445 12th Street SW
Washington DC 20554
Via Email

Re: MB Docket No. 10-71

Dear Mr. Lake:

Last week, the American Television Alliance (ATVA) submitted an *ex parte* letter in which it again asked the FCC to intervene in the free market – in favor of pay TV companies – for the retransmission of local broadcast TV signals.¹ We will not address here the litany of goodies the pay TV industry is seeking from the Commission, but we do want to discuss what they describe – like a 1950s B-movie trailer – as “the menace of TV blackouts.”

NAB recently noted that the Commission should be on the lookout for an increase in pay TV-generated retransmission consent disputes as it prepares to start a rulemaking to review its good faith totality of the circumstances standard in fulfillment of its STELAR mandate.² Certain pay TV companies appear to have developed a political strategy in which they foster retransmission consent impasses designed to spur the government to intervene on their behalf. NAB asks the FCC to take note of a retransmission consent impasse involving Mediacom that immediately followed its recent petition asking, yet again, for the FCC to initiate a rulemaking on retransmission consent.³

Without missing a beat, ATVA’s *ex parte* letter argues that retransmission consent disputes “continue to rise across the country” even though there were fewer impasses in 2014 than

¹ See Ex Parte Notice of the American Television Alliance in MB Docket No. 10-71 (filed July 17, 2015) (ATVA Ex Parte).

² See Ex Parte Notice of the National Association of Broadcasters in MB-Docket No. 10-71 (filed July 13, 2015); see also STELA Reauthorization Act of 2014 (STELAR) § 103(c).

³ See Petition of Mediacom Communications Corporation to Amend the Commission’s Rules to Promote Expanded Free Access to Local Broadcast Television Stations Via Over-the-Air Reception, Internet Streaming, or Other Means (filed July 7, 2015). The very pay TV industry petition for rulemaking that led to the launch of this proceeding fits this same pattern, having been filed closely on the heels of a high profile disruption involving Cablevision and Disney. The disruption took place during the Academy Awards on March 7, 2010—and the petition was filed two days later. See Time Warner Cable, Inc., *et al*, *Petition for Rulemaking to Amend the Commission’s Rules Governing Retransmission Consent*, MB Docket No. 10-71 (filed March 9, 2010).

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there were the previous year.⁴ ATVA's use of these impasses as political ammunition should give the Commission pause as pay TV providers use their customers as fodder in their ambitious attempt to pay less for the valuable content they sell for a hefty price to their viewers.

This approach should come as no surprise coming from an industry that ranked dead last among all industries covered in the most recent American Customer Satisfaction Index (ACSI).⁵ Indeed, according to the ACSI, which includes results from surveys of 70,000 customers across America, customer satisfaction with subscription TV service dropped another 3.1 percent last year. According to the report, "customers say that subscription TV service has deteriorated in nearly every aspect," citing service interruptions, confusing bills, and frustrating call centers as the most frequent complaints.⁶

Coupled with the pay TV industry's long-standing sky-high profit margins, their deplorable customer service record makes their emotive plea on behalf of "American consumers" ring hollow. We hope the Commission will see through this transparent ploy to make powerful pay TV operators look like victims in need of government assistance. Instead, we encourage the Commission to consider ways that it can actually help customers trapped in contracts with abusive pay TV providers.

Respectfully,

A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal flourish extending to the right.

Rick Kaplan
Executive Vice President and General Counsel
National Association of Broadcasters

⁴ ATVA Ex Parte at 1-2. Apparently, ATVA subscribes to a different meaning for "rise" than everyone else.

⁵ ACSI Telecommunications and Information Report 2015 (June 2, 2015), available at: <http://www.theacsi.org/news-and-resources/customer-satisfaction-reports/reports-2015/acsi-telecommunications-and-information-report-2015/acsi-telecommunications-and-information-report-2015-download>.

⁶ *Id.* at 3-4.