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VIA ECFS

Marlene Dortch
Secretary
Federal Communications Commission
445 12TH Street SW
Washington, D.C. 20554

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

Dear Madam Secretary,

On August 27, 2015, Klarn DePalma (General Manager, WFSB and WGGB) and the undersigned met with Alison Nemeth of Commissioner Pai's office regarding the network non-duplication and syndicated exclusivity rules (the "Exclusivity Rules"). A summary of that conversation is included below.

· ***Boundaries are What Keeps the Free Market Free*** – The FCC's non-duplication and syndicated exclusivity rules do not themselves grant any rights to broadcasters. They simply grant all regulated parties an efficient forum in which to resolve disputes about exclusivity. Instead of directly regulating the conduct of actors, these regulations let parties negotiate exclusivity and simply provides an efficient means of enforcement of those free market agreements. The alternative – messy court cases with multiple parties and attendant costs to companies and the taxpayers – is not market efficient.

Even arbitration requires multiple arbitration clauses with multiple parties, and arbitration is still expensive and lengthy. Either court or arbitration enforcement would require extensive legal fees, which would be easier borne by the much larger MVPDs at the expense of a broadcaster, especially since an MVPD could receive more local advertising from their local sales teams or interconnects while the dispute is ongoing.

· ***Part of an Interrelated Web*** – The FCC's exclusivity rules are a part of a complex web that includes STELAR's satellite exclusivity rules, compulsory copyright, and retransmission consent. That Congress kept in place the statutory exclusivity for satellite providers is telling, and the FCC should continue to treat cable and satellite operators alike. Furthermore, broadcasters cannot opt out of the compulsory license. MVPDs get the benefit of the compulsory license because of the limitations on exclusivity. To remove only one part of a complicated regulatory and statutory scheme undermines the checks and balances that Congress has created.

· ***Exclusivity is Necessary for Localism*** – Local television stations pay for exclusivity from their content owners so they can build revenues locally to produce local news, sports, and information programming. Advertisers in a local market would prefer a local station with a local audience and local prices. For example, a New England car dealer group could have different deals ongoing than a New York/Tri-State dealer, and consumers would be confused by an imported signal. Even local sports team coverage would be affected.

Additionally, local emergency information could suffer from importation. For example, in Springfield, MA, weather patterns move from West and East, meaning that Springfield stations cover weather in Springfield before Boston stations would cover such life-saving information. Furthermore, we noted that MVPDs have an incentive to damage lower-ranked broadcast television stations so that local advertising would go to their interconnects or local sales teams. Importantly, MVPDs have no public interest obligation and their business model does support local content.

Very truly yours,



Joshua N. Pila

CC: Alison.Nemeth@fcc.gov

