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VIA ECFS

September 9, 2015

Ms. Marlene H. Dortch
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:

In accordance with Section 1.1206 of the FCC's rules, this is to advise you that on September 1, 2015, Deborah A. McDermott, Senior Vice President and Chief Operating Officer of Media General, Inc. ("Media General"); Henry Gola, Associate General Counsel of Media General; and I met with the FCC representatives listed on Exhibit A to discuss the public interest benefits of the FCC's network non-duplication and syndicated exclusivity rules (the "Exclusivity Rules") and the potential effects and unintended consequences of their proposed elimination. The handout attached as Exhibit B was distributed at the meetings.¹

In addition to reviewing the information on Exhibit B, the Media General representatives described the extensive amount of high-quality local news and information the company's stations air in their communities. Collectively, Media General's stations broadcast 1,780 hours of local news per week at an overall cost of roughly \$250 million annually.

In each meeting, Ms. McDermott expressed her concern that, if the Exclusivity Rules were eliminated, Media General stations, particularly those in smaller markets, would lack the resources to provide the same level of local coverage, severely undermining the FCC's core public interest goal of localism. She discussed the extensive resources, including expenditures of millions of dollars on weather radar in many markets, that the company brings to bear in covering breaking news and weather stories. As examples, Ms. McDermott reviewed Media General's coverage of the recent on-air shooting of journalists in Roanoke, Virginia; the theatre shooting in Lafayette, Louisiana; and the church shooting in Charleston, South Carolina. In addition, she described how the Media General stations in those markets continued to work after the events to support their communities, providing news coverage that humanized the events, broadcasting information necessary for viewers to deal with practical consequences, and organizing and providing local community services meeting logistical and other needs

¹ This ex parte report is being filed today, consistent with the extension allowed pursuant to FCC Public Notice, "Certain Databases Will Be Unavailable and Filing Deadlines Will Be Extended in Early September To Accommodate a Significant FCC IT Upgrade," DA 15-940, released Aug. 20, 2015.



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occasioned by the tragedies. Examples of the community service initiatives provided by Media General stations are attached as Exhibit C.

In the case of the Roanoke tragedy, Ms. McDermott elaborated that, immediately following the breaking news of the shooting, she reached out to her counterpart at WDBJ's owner to offer the facilities and personnel of Media General's WSLS-TV in Roanoke to help keep WDBJ's news reports flowing to the community. Ms. McDermott also explained how Media General's local news directors collectively decided not to air footage of the on-air slaying, contrary to other news services, including some of the networks with which Media General is affiliated.

As explained in Exhibit B, Mr. Gola emphasized that without the Exclusivity Rules, the industry lacks an effective judicial or other mechanism to enforce exclusivity provisions in existing contracts. He said that the certainty of enforcement under the simple, bright-line Exclusivity Rules acts as a deterrent among various industry players. Contrary to suggestions, the lack of FCC complaints and litigation to date shows that the rules are clear and effective, not that they are outdated. Without Exclusivity Rules, the Media General representatives said that, over time, exclusivity provisions would likely disappear from programming contracts. They also expressed concerns that some large owners would take advantage of the elimination of the Exclusivity Rules to broaden their national reach, circumventing the national television ownership caps.

Finally, the Media General representatives noted that, if the Exclusivity Rules were eliminated, it would take at least five to seven years to re-establish a legally enforceable system or mechanism to ensure compliance with privately-negotiated programming exclusivity provisions.

As required by Section 1.1206(b), as modified by the policies applicable to electronic filings, one electronic copy of this letter is being submitted for the above-referenced docket.

Very truly yours,

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

M. Anne Swanson

Enclosures

cc w/encl.: FCC representatives listed on Attachment A (via email)

EXHIBIT A

FCC Attendee(s) at Meetings

Commissioner Michael O’Rielly

Robin Colwell, Chief of Staff and Senior Legal Advisor, Media to Commissioner O’Rielly

Commissioner Jessica Rosenworcel

Valery Galasso, Policy Advisor to Commissioner Rosenworcel

EXHIBIT B

See attached

Media General

The Exclusivity Rules: Protecting Localism and Providing an Efficient, Pro-Consumer Enforcement Mechanism

August 25, 2015

Media General: Operates or services 71 full power stations in 48 markets





LOCAL EXCLUSIVITY RULES AND THE POTENTIAL EFFECTS OF THEIR ELIMINATION

I. Key Background

- A. **Exclusivity Rules.** The FCC's Network Non-Duplication and Syndicated Exclusivity Rules (the "Exclusivity Rules") give local stations the right to ask the FCC to enforce geographic exclusivity protections that they have negotiated with networks and syndicators. These rights prevent MVPDs from carrying programming of a distant station that duplicates a local broadcast station's programming.
- B. **FCC Proposal.** The FCC is proposing to eliminate the Exclusivity Rules, effectively requiring stations to rely on programming suppliers and courts to enforce contractual exclusivity.
- C. **Effect of Elimination.** Elimination would (i) particularly devastate stations in small-markets; (ii) decrease locally-produced broadcast programming, thereby gutting localism; (iii) increase the scope of blackouts; and (iv) contribute to rising cable bills nationwide.

II. History of the Exclusivity Rules

- 1965** – FCC adopted the Network Non-Duplication Rule to protect a local TV station's right to exclusively provide network content in its market. *Purpose:* promote local broadcasting by ensuring that local network affiliates could realize dependable revenue streams from their distribution of national network content.
- 1972** – FCC adopted the Syndicated Exclusivity Rule to ensure that local broadcasters could obtain similar benefits with respect to syndicated programming.
- 1976** – Copyright Act of 1976 addressed several Supreme Court decisions that had found cable operators did not have to make copyright payments for retransmitting TV broadcast programming. The Act granted cable operators a compulsory copyright license, allowing retransmission of broadcast signals for a nominal fee. In exchange for the compulsory license, which was a departure from a free market system, cable operators were required to follow all FCC broadcast signal carriage rules, including the Exclusivity Rules.
- 1988** – Congress extended the compulsory license to satellite video providers with provisions that essentially recognized the Exclusivity Rules.
- 1992** – Cable Act of 1992 established retransmission consent, addressing cable's compulsory license, which created a "distortion in the video marketplace" through local broadcast stations' subsidization of cable competitors. The Senate Report on the Act said that Congress relied on continued existence of the Exclusivity Rules and that their repeal or amendment would be inconsistent with legislative intent.



III. Interplay of Programming Agreements, Retransmission Consent, and Exclusivity

- A. Network Affiliation and Syndication Agreements.** Generally, local stations' network affiliation and syndication agreements:
- (1) define exclusive territories for the programming's broadcast;
 - (2) prohibit stations from granting retransmission consent outside local markets; and
 - (3) incorporate the Exclusivity Rules.
- B. Retransmission Consent Agreements.** Retransmission consent agreements allow broadcasters to control MVPD redistribution of their signals in their local markets and generally incorporate the Exclusivity Rules, prohibiting MVPD's redistribution of distant stations' duplicate programming.
- C. Operation of Exclusivity Rules.** Broadcasters enforce their exclusivity rights through a complaint to the FCC. Certainty of FCC enforcement keeps local cable operators and satellite providers from ignoring broadcasters' contractual exclusivity.

IV. Consequences of Eliminating the Exclusivity Rules

A. Makes Current Contracts Essentially Unenforceable.

- Current contracts generally do not permit stations' direct enforcement of exclusivity rights through an avenue other than the FCC.
- Local stations would face distant signal importation without a real remedy. They would have to rely on their networks and syndicators to enforce their contractual exclusivity against other stations, either through the programming suppliers bringing lawsuits or terminating offending stations' affiliations or syndication agreements. Even if program suppliers could be convinced to take such action, it would be slow, expensive, and unpredictable and produce a patchwork of nationwide decisions

B. Destroys Small Market Stations.

- Small market stations absolutely depend on retransmission consent revenues to fund local operations. Those revenues, in turn, are dependent on local exclusivity.
- Without exclusivity protections and with the threat of distant signal importation, the retransmission consent value of these small-market stations will be greatly (and artificially) diminished.
- Stations in smaller markets located near or adjacent to urban markets would likely suffer immediate harm as larger stations in urban markets would seek to expand their reach through retransmission consent. *Result:* the eventual displacement of "local" TV service in local markets by cable retransmission of a handful of distant superstations (perhaps network-owned).

- Squeezed by high programming costs, lower retrans rates, and lower advertising revenues due to shrinking service areas, small operators would exit, leading to more media concentration.

C. *Reduces Localism.* Today, local TV broadcasters are the preeminent providers of local news and information. Increased importation of distant stations will hurt localism:

- A viewer in Kansas derives little benefit from watching local coverage from Oregon,
- Radar maps and emergency coverage of severe weather thousands of miles away will confuse viewers
- Lower retrans fees will force stations' reduced investment in local news and other local programming
- If existing retransmission agreements between local TV stations and MVPDs do not clearly prohibit retransmission beyond local markets, compulsory copyright would allow those MVPDs to begin retransmitting signals in any other market they serve. In future retrans negotiation cycles, new retransmission agreements would likely not prohibit retrans beyond local markets

D. *Distorts Markets.* Elimination amounts to the FCC picking winners and losers. Compulsory copyright provides an enormous government subsidy to cable operators and represents a distinct departure from a free-market system for programming performance rights. Rather than haphazardly and arbitrarily distorting the market, the FCC should urge Congress to holistically review the entire local broadcast and MVPD programming distribution ecosystem.

E. *Won't Prevent Retransmission Consent Blackouts.* The creation of larger regional superstations will lead to more and wider blackouts during retrans negotiations. Instead of losing a station in a single market, regional superstation blackouts will affect numerous markets at once.

F. *Increases Cable Rates.* Repeal of the Exclusivity Rules will likely affect cable rates. Weaker local TV stations will receive less for retrans. The lower retrans rates will push high-demand content to cable, ultimately raising cable bills.

EXHIBIT C

See attached



Exhibit C

In addition to providing award-winning, in-depth local news, Media General stations provide numerous service initiatives designed to better their local areas. The table below provides examples of these initiatives:

Media General Station(s)	Market	Description
KRON-TV	San Francisco-Oakland-San Jose	The station works to publicize efforts for the local Habitat for Humanity.
WFLA-TV, WTTA	Tampa-St. Petersburg	The stations support the American Heart Association Heartwalk.
KOIN	Portland, OR	The station partners with SOLVE, one of the nation's largest environmental non-profit groups. It helps clean up Oregon's beaches, rivers, and green spaces. The station also provided live coverage and promotion of the Waterfront Blues Festival benefiting the Oregon Food Bank, the state's largest non-profit group working to end hunger, and generated more than \$850,000 in donations.
WNCN	Raleigh-Durham	The station developed a local education campaign highlighting the importance of braking for school buses.
WISH, WNDY-TV	Indianapolis	Gr8 Health is a year-round, 24/7 public service awareness campaign where the station utilizes resources to help keep Hoosiers informed on the importance of living and eating well. Weekly news stories, talent blogs, and special events are just a few of the ways the station spreads the word about Gr8 Health. The Gr8 Paper Push is a new campaign to help with the back to school rush. The station collects school supplies for the Teacher's Treasures Resource Center, which welcomes teachers from underserved schools into their warehouse of donated supplies to come in and shop for much-needed classroom supplies. They say their greatest need is always paper. The WISH-Tree is one of our most established and most productive Community Service Campaigns. Each year during November and December, the station collects toys and cash donations for deserving families and children during the holidays.
WKRN-TV	Nashville	The station is home to Food to Families, a

		project that has been embraced by the community for more than three decades. The station is the primary fundraiser for the Nashville Second Harvest Food Bank and works with schools and communities to raise food items each Fall. The station is also the primary media sponsor of the Ronald McDonald House in Nashville, raising money for operations through a telethon, community run and other events.
WTNH, WCTX	Hartford – New Haven	The stations run the GR8 Holiday Give, collecting gifts for Toys for Tots, and Operation Save a Life, creating fire safety public service announcements.
WCMH-TV	Columbus, OH	The station sponsors Firefighter for Kids, an annual toy drive in partnership with local firefighters. In 2014, the station filled three tractor trailers and collected \$35K in cash and gift cards. The station also participates in two projects with the Mid-Ohio Food Bank – the 4’s Army Food Drive and the Double Your Donation Day.
WSPA, WYCW	Greenville-Spartanburg-Asheville-Anderson	As part of 25 Days of Wishes, the station solicits nominations and fulfills family needs during the holidays.
WOOD-TV, WOTV, WXSP-CD	Grand Rapids-Kalamazoo-Battle Creek	The stations work with the Salvation Army, securing clients (banks, grocery stores, shopping malls) to volunteer to put an Angel Tree in their locations. For 23 years, we have been able to secure about 35,000 – 40,000 gifts annually, which the Salvation Army distributes to families and children in 14 counties.
WAVY, WVBT	Norfolk-Portsmouth-Newport News	Through Operation School Supplies, the station collects supplies through news coverage, promos and The Hampton Roads Show. The initiative provides supplies to students in need in Hampton Roads.
WHTM	Harrisburg-Lancaster-Lebanon-York	Through Operation Save a Life, the station works with the local fire departments and a local business to give away 4,000 home smoke alarms every year.
KRQE, KASA-TV	Albuquerque-Santa Fe	KRQE Cares collected shoes for kids in need in APS Title 1 schools. During the last campaign, it distributed 2,600 pairs of shoes.
WIVB-TV, WNLO	Buffalo	As part of Fill the Backpack, the station partners with a local grocery store chain and a food bank to send food home to children who are on free and reduced lunch during the week

		but do not have food at home on the weekends.
WPRI	Providence-New Bedford	Through the Meeting Street telethon, the station raises money for a local private school for children with disabilities. With the Save the Bay Beach Clean-Up, the station helps clean the Rhode Island coastline.
WRIC	Richmond-Petersburg	The station works with the Feed More Food Bank to raise 100,000 meals in one day.
WTEN	Albany-Schenectady-Troy	The station runs Coats for Kids, a campaign each fall to collect coats to keep kids in our community warm, and Pet Connection, where the station works with the Humane Society and shelters to assist in pet placement and adoption.
WATE	Knoxville	The station participates in the WATE Community Service Day year-round. Also, in August the station ran a "Free Shred Day," partnering with a document shredding company to shred viewers' personal documents for free.
WSLS-TV	Roanoke-Lynchburg	The station is the driving force behind Home for the Holidays, teaming with Habitat for Humanity and ten sponsors to build a home in two weeks. The family moves in right before Christmas. The station also teamed with the Boys and Girls Club to collect school supplies for needy students.
KHON-TV	Honolulu	Last year after Tropical Storm Iselle, the station aired a telethon for the American Red Cross, raising \$130,000. The station undertakes a holiday campaign every year called "Laulima." The station profiles families in need, and viewers donate gifts and money to these families through Keiki O'Ka Aina, a local non-profit organization.
WJTV	Jackson, MS	With Pack the Pickup, the station partners with local businesses to gather food donations for the Mississippi Food Bank.
WCBD-TV	Charleston, SC	The station is a sponsor of the Toys for Tots campaign in Charleston, collecting tens of thousands of toys for families in need during the holiday season.
WJHL-TV	Tri-Cities, TN-VA	Through Habitat for Humanity, the station helped build a house and did live news coverage throughout the week. The station sponsors the Second Harvest Food Bank food drive in November. Additionally, the station dedicates a full month of news coverage to Breast Cancer Awareness

		Month each October.
WBTW	Myrtle Beach-Florence	The station sponsors the annual Special Treats for Special Kids event, getting many businesses to donate and have booths for the kids and their parents.
KELO-TV	Sioux Falls	The station serves at The Banquet, a local soup kitchen. Through Keep KELOLAND Warm, the station collects donated coats with a sponsor and distributes them to the needy. The station also sponsors two annual Take Your Dog to Work Days through The Humane Society. In conjunction with these events, the station collects 100s of pounds of dog food and cash in front of the station with employees working in shifts.
WANE-TV	Fort Wayne	Through Honor Flight NE Indiana, the station has helped awareness and raised donations to help pay for flight expenses for WWII veterans to visit Washington, D.C. and the WWII monument.
WLNS-TV	Lansing	During the 6News 12 Days of Giving, the station raises food, clothing and money donations for the Lansing Food Bank.
WWLP	Springfield-Holyoke	Over a two-week period, the station collects toys in its lobby for western Massachusetts children in need. Through Working for a Better Tomorrow, the station focuses on the heroin and drug addiction problem in its area. The station runs a PSA campaign featuring recovering addicts and mothers of addicts speaking in their own words, and it built a web page filled with contact information about recovery programs, support groups, and group homes. The station also airs news stories in support of the campaign and focuses on various addiction issues through our public affairs program.
KLFY-TV	Lafayette, LA	The station launches the 10 Cares food challenge this week, selecting two schools to compete in a food drive for Feeding America. The station aids the Boys and Girls Club of Acadiana with the Adopt a Duck Run, the organization's main fundraising event. Through FoodNet of Acadiana, the station collects food and airs an all-day food drive during the holidays. The station also supports Project Front Yard, raising money to clean up Lafayette through campaigns and fundraising.
WRBL	Columbus, GA	Through Partners In Education, WRBL teams

		up with a local credit union and the 2-58 Infantry at Ft. Benning to support Loyd Elementary on Post.
KIMT	Rochester-Mason City-Austin	The station donates \$300 to local schools each month for supplies through Tools for Schools. The station also recognizes a volunteer on-air each month nominated by viewers as part of the Giving Your Best initiative. The station also participates in school supply drives and Toys for Tots.
WTHI-TV	Terre Haute	The station sponsors the Share Your Thanksgiving food drive for local Catholic charities.
WLFI-TV	Lafayette, IN	The station participates in the Tools for School supply drive for back to school supplies for needy kids. The station also runs a coat drive for winter wear for area kids in the Fall. Through Holiday Hope, the station works with two non-profits and local companies to provide needy children with toys.