

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Implementation of Section 103 of the STELA
Reauthorization Act of 2014

Totality of the Circumstances Test

MB Docket No. 15-216

**THE AMERICAN TELEVISION ALLIANCE'S
OPPOSITION TO MOTION FOR EXTENSION OF TIME**

The National Association of Broadcasters and the four network affiliate associations have asked the Commission to extend comment deadlines in this proceeding¹ by more than two months so broadcasters can spend the intervening time preparing for the incentive auction.² The American Television Alliance (“ATVA”) hereby opposes this request. However important the incentive auction may be to broadcasters, retransmission consent reform is long overdue and this matter can no longer wait.

During the two-plus months of delay sought by the broadcasters, MVPD subscribers will have paid an estimated *\$1.3 billion* in retransmission consent fees.³ If the past is any guide, moreover, during that time broadcasters themselves will almost certainly deny extension requests

¹ *Implementation of Section 103 of the STELA Reauthorization Act of 2014; Totality of the Circumstances Test*, Notice of Proposed Rulemaking, FCC 15-109, 2015 WL 5174801 (rel. Sept. 2, 2015).

² Motion for Extension of Time by NAB *et al.*, MB Docket No. 15-216 (filed Oct. 23, 2015).

³ John Eggerton, Kagan: Retrans Fees to Reach \$10.3B by 2021, BROADCASTING & CABLE (July 7, 2015), *available at* <http://www.broadcastingcable.com/news/washington/kagan-retrans-fees-reach-103b-2021/142342>.

made by cable, satellite, and IPTV providers seeking to avoid blackouts for their customers. From the perspective of television viewers—some of whom may find themselves unable to watch the Super Bowl soon after the broadcasters’ proposed new comment date of February 1—the Commission cannot resolve this proceeding quickly enough.

ATVA recognizes the importance of the incentive auction to broadcasters. Yet the auction is by no means the only issue they face. For example, the auction presumably will not prevent broadcasters from negotiating retransmission consent agreements as they expire. The broadcast associations, moreover, rank among the oldest, largest, and most sophisticated advocacy organizations in the communications sector.⁴ They are more than capable of dealing with multiple issues simultaneously. (In this regard, we are interested to see whether the broadcasters will seek similar delay of other proceedings they find more to their liking, such as the recently initiated rulemaking to liberalize the broadcast foreign ownership rules.⁵)

In any event, broadcasters have had more than ample notice of this proceeding. The Commission’s most recent review of retransmission consent issues began in 2010.⁶ Congress directed the Commission to examine good-faith issues nearly a year ago.⁷ The Commission, in turn, issued the instant *Notice* nearly two months ago, giving a full sixty days after Federal Register publication for comments. However much effort the broadcast associations and their

⁴ NAB, for example, had 195 employees and reported revenues of nearly \$60 million in 2013. *See* 2014 IRS Form 990, *available at* <https://projects.propublica.org/nonprofits/organizations/530114600>.

⁵ *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Notice of Proposed Rulemaking, FCC 15-137 (rel. Oct. 22, 2015).

⁶ Time Warner Cable Inc. et al. Petition for Rulemaking to Amend the Commission's Rules Governing Retransmission Consent, MB Docket No. 10-71 (filed Mar. 9, 2010).

⁷ The STELA Reauthorization Act of 2014 (STELAR), § 102, Pub. L. No. 113-200, 128 Stat. 2059, 2060-62 (2014) (enacted Dec. 4, 2014).

members will need to participate in the incentive auction, they cannot reasonably argue that they have lacked the opportunity to prepare for this proceeding as well.

Broadcasters cannot expect the public interest to go on hiatus while they prepare for their auction. Retransmission consent reform—long overdue already—cannot be put off any longer.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Michael Nilsson", is positioned below the "Respectfully Submitted," text.

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October 23, 2015

Certificate of Service

I, Sabrina McMillin, hereby certify that, on October 23, 2015, I caused a true and correct copy of this Opposition to be served by first-class mail or electronic mail on the following:

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