



CBS Corporation

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February 10, 2016

via Electronic Comment Filing System (ECFS)

Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW, Room A325
Washington, DC 20554

RE: Ex parte notification regarding MB Docket Nos. 10-71, 15-216

Dear Ms. Dortch:

On February 9, 2016, Leslie Moonves, Chairman, President and Chief Executive Officer of CBS Corporation; John Orlando, Executive Vice President of Government Affairs for CBS Corporation; and the undersigned met with FCC Chairman Tom Wheeler, General Counsel Jonathan Sallet, and Media Legal Advisor Jessica Almond to address the topic of retransmission consent. The discussion included the proceedings relating to “totality of the circumstances” and the exclusivity provisions of network non-duplication and syndicated exclusivity.

Mr. Moonves urged, for two principal reasons, that the Commission take no action at all, except, perhaps, to terminate the pending retransmission consent and exclusivities proceedings. As long as the proceedings are open, MVPDs will exploit their pendency as an excuse to refrain from entering into genuinely good faith negotiations with broadcasters in the hopes that the government will rescue them

from an experience that is new to them: The rough and tumble of the marketplace. Mr. Moonves noted that competition can be painful, as broadcasters know all too well. He described the explosion of competition in the programmer marketplace as new entrants, as well as established MVPDs, compete in the production and acquisition of content, including live, professional sports. This robust growth in the video content marketplace is occurring while the distribution market consolidates by merger.

The most important reason for terminating all retransmission consent proceedings, Mr. Moonves stated, is that for the first time since the Cable Act was signed in 1992, the goal of Congress has finally been fulfilled: The consumer is the winner. The American viewer has access to the highest quantity and quality of entertainment, sports, news/information and local programming ever in the history of television and for free of charge via the over-the-air distribution system.

The fact that MVPDs have been complaining about retrans before policymakers does not mean that they have less leverage than broadcasters. It only means that they are finally feeling the pain that competition can bring. Any “leverage” broadcasters may have is called desirable, high quality content. Broadcasters should not be penalized or handicapped because they invest billions of dollars in creating and acquiring programming that MVPDs desire. If MVPDs do not want to pay market rate for this content, they are not obligated to purchase it. And their customers can access that same content in a number of other ways. The content is never “blacked out” completely to any American consumer and is always available through other distribution platforms, including broadcast and OTT.

Mr. Moonves also discussed the FCC’s proposal to eliminate the network non-duplication/syndicated exclusivity rules. He expressed concern that the Commission proposes to jettison its role in these low-maintenance, mostly self-effectuating regulations while at the same time proposing anti-broadcaster “totality” and other retrans rules that will expend precious agency resources in oversight and enforcement of negotiations that are best left to the marketplace. Proponents who advocate for deleting exclusivity rules argue that doing so will “free” the marketplace for broadcast programming. But

they fail to mention the compulsory license that remains in place. That license gives cable and satellite operators a government subsidy of our programming at below-market rates and was established with the understanding that the exclusivity rules would provide a bit of balance.

CBS's incentive to continue to produce, acquire and invest in the highest quality content demanded and expected by consumers, Mr. Moonves noted, should not be diminished or stifled by regulations that tip the balance against broadcasters.

Sincerely,

A handwritten signature in black ink, appearing to read "Mickey", is centered on a light gray rectangular background.

cc: (via email)
Jessica Almond
Jonathan Sallet