

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Inquiry Required by the Satellite Home Viewer	)	
Extension and Reauthorization Act on Rules	)	MB Docket No. 05-28
Affecting Competition in the Television	)	
Marketplace	)	
	)	

**COMMENTS OF THE WALT DISNEY COMPANY**

These comments are submitted on behalf of The Walt Disney Company (“TWDC”), ESPN (80% owned by TWDC), Disney ABC Cable Networks Group (including The Disney Channel, ABC Family, Toon Disney and SOAPnet), The ABC Television Network and the ABC-owned television stations (hereinafter collectively referred to as “Disney”). Disney is filing these brief Comments in response to the Commission’s recent request for comment on the retransmission consent and other rules that are the subject of a study that the FCC is required to complete under Section 208 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA). Disney’s retransmission consent practices are reasonable and flexible and Disney strongly believes that there is no reason to revise the retransmission consent statutes or regulations.

As part of the FCC's A La Carte proceeding, Disney stressed that it offers carriage of its ten ABC-owned broadcast stations at a standalone price.<sup>1</sup> To establish that the standalone price itself is reasonable, Disney submitted an economic study that determined the fair market value of three of the ABC owned television stations (one station in a large market and the two stations in the smallest markets in which ABC owns television stations).<sup>2</sup> ABC's Retransmission Consent Economic Analysis concluded that the value – on average – of the ABC owned stations ranged between \$2.00 and \$2.09 per subscriber per month, well in excess of ABC's cash standalone offer. A copy of the Retransmission Consent Economic Analysis is attached to these comments.

Notably, the Retransmission Consent Economic Analysis used three different approaches to assess the value of the ABC Owned stations, all of which resulted in a figure in excess of Disney's cash offer and all of which, according to the Analysis, likely understate the actual value. The first method was to determine the value of the stations based on the retail price for the stations as sold by DBS (with results ranging from \$.97 to \$1.23). The second method was to determine the value of the stations based on the retail price for the stations as sold by cable (with results ranging from \$1.90 to \$3.06). The third method was based on the amount spent by The ABC Television Network for programming (and discounting for the lack of advertising availabilities on broadcast networks) and determining a license fee comparable to a cable network. The third method notably included only the amounts spent by the ABC Television Network, and not the vast amounts spent by the local stations themselves (for news, public affairs, syndicated programming), and that result was \$2.27.

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<sup>1</sup> See Pyne Declaration, attached to Disney's A La Carte Comments as Attachment 11.

<sup>2</sup> See Michael G. Baumann and Kent W. Mikkelsen, THE FAIR MARKET VALUE OF LOCAL CABLE RETRANSMISSION RIGHTS FOR SELECTED ABC OWNED STATIONS (July 15, 2004).

To the extent that there are any questions regarding Disney's retransmission consent practices, Disney also addressed those issues in the FCC's A La Carte proceeding, and asks that the Commission incorporate those comments into this proceeding. In that proceeding, Disney stressed that, when negotiating with MVPD's – including smaller rural carriers – Disney offers flexibility in striking a retransmission consent deal. Specifically, Disney stressed that it does not require MVPDs to carry certain of its programming services as a prerequisite to carrying Disney's most popular programming services (namely, the signal of the ABC-owned television stations or ESPN). Therefore, Disney reiterates that its retransmission consent practices do not provide the FCC with any basis to recommend any changes to the retransmission consent process.

Respectfully submitted,

/s/ Susan L. Fox  
Susan L. Fox  
Vice President, Government Relations  
The Walt Disney Company  
1150 17<sup>th</sup> Street, N.W., Suite 400  
Washington, D.C. 20036  
(202) 222-4700

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