BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	MB Docket No. 05-28
Inquiry Regarding the Impact of Certain Rules on Competition in the Video Programming Distribution Market	)	

To: The Commission

REPLY COMMENTS OF DUHAMEL BROADCASTING ENTERPRISES

Duhamel Broadcasting Enterprises ("Duhamel"), by its attorneys and pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.419, hereby submits its reply comments in the above-captioned proceeding.

Duhamel submitted comments in the instant proceeding to ensure that the Commission had before it the perspective and historic experience of a small market broadcaster that has operated under the Commission's rules governing the carriage of broadcast station signals on cable and satellite systems for many decades. Duhamel, and several other commenters, including the National Association of Broadcasters, ABC Television Affiliates Association, the CBS Television Network Affiliates Association, the FBC Television Affiliates Association, and the NBC Television Affiliates Association, and NBC Universal, Inc., established the backdrop against which the other comments in the proceeding must be reviewed. Specifically, these commenters set out the many the public policy considerations that gave rise to the current retransmission consent, syndicated exclusivity and network nonduplication rules and accurately

described the framework that these rules together create for the efficient operation of the marketplace.

Upon review of the remaining comments submitted in this proceeding, Duhamel urges that the Commission not make any recommendations to Congress for changes in these rules as they currently exist. While each of the multichannel video program distribution ("MVPD") parties commenting has set out specific proposals that will enable it to more easily secure broadcast programming for redistribution, none has convincingly articulated any public policy reason for modifying the framework currently in place. Most of the proposals made would wholly undermine the current framework with no clearly articulated goal other than the enrichment of MVPDs at the expense of broadcasters.

A chief example of this is the suggestion by the National Cable & Telecommunications Association that broadcasters exercising retransmission consent rights should be denied the right to enforce the syndicated exclusivity and network nonduplication protections they hold.[1] The suggestion effectively forces all broadcasters, regardless of the strength of their signal and programming in the market, to elect must carry rather than take the risk that a cable operator will import a duplicating distant signal. As such, it completely undercuts the Congressional intent behind the enactment of the Cable Act, namely that broadcasters not be forced to subsidize their competitors and be given the opportunity to freely elect between must carry and retransmission consent.

[1] Comments of the National Cable & Telecommunications Association, at 12, MB Docket 05-28 (Mar. 1, 2005).

Moreover, the suggestion ignores the intertwined nature of the various rules being examined here and the contractual rights of the parties involved. Syndicated exclusivity and network nonduplication rights are bargained for by the specific broadcaster and granted by the specific program producer. NCTA's proposal interjects another party, the cable operator, into this negotiation and upsets this long established balance.

The example merely demonstrates that the MVPD commenters recommending changes to the current rules have not presented any cogent policy to replace the ones with which they disagree. However, as shown in Duhamel's Comments, the current rules balance the needs of many parties and the efficient operation of the marketplace. Nothing in the Comments submitted in this proceeding evidences a need to revise those rules to advance the private interests of MVPDs.

Respectfully submitted,

DUHAMEL BROADCASTING ENTERPRISES

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