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June 14, 2006

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Carriage of Broadcasters' Multicast Channels, CS Docket No. 98-120

Dear Chairman Martin:

I want to thank you for your leadership and support of cable carriage for all free, over-the-air digital programming offered by local broadcast stations, including multicast channels.

In a July 2005 survey conducted by NAB, 79.2% of stations that are presently multicasting or planning to do so stated they will be highly unlikely or unlikely to provide these types of services in the future if these stations were not carried by their local cable systems.

Throughout the past several days, broadcasters have provided the Commission with ample evidence that that cable has discriminated against additional, local multicast channels. Many cable systems have flatly refused to carry these local channels, while others have imposed onerous conditions on their carriage, including demands for editorial control over *content* of the multicast channels, restrictions against carrying advertisements for cable competitors, or placing the channel on a digital-only or premium service tier.

Below are some examples of cable operators' anticompetitive abuses of local channels, abuses that would be curbed if the Commission were to prevent cable operators from stripping out broadcasters' multicast channels. Copies of the stations' filings in this proceeding are also attached to this letter.

- Maranatha Broadcasting in Allentown, Pennsylvania was *refused carriage under any circumstances* by local cable provider Comcast for its all-local 24/7 weather channel.

- In negotiating carriage of just one of its multicast channels with Comcast, Media General Broadcast Group was forced to agree to unreasonable requests for securing carriage by *agreeing that it would not seek carriage for Media General stations in certain other markets.* Additionally, several smaller cable operators have threatened to file complaints

with the Commission alleging bad faith retransmission consent negotiations, *simply because it requested, not insisted on, those system's carriage of Media General's multicast services*.

- DIC Entertainment Corporation was forced to shelve plans for a multicast-based children's programming network when it was told that *cable operators had no intention to carry the stations since they would compete for viewers with cable's existing children's channels.*

- One month before Hurricane Katrina devastated New Orleans, Cox Communications and Charter Communications had no plans to add WDSU's multicast *NBC Weather Plus* to their line-ups.

- Hearst-Argyle stations have been unsuccessful in obtaining carriage for its multicast stations by cable where *cable has admitted it wants to avoid additional competition against channels cable has a financial interest in*. Cable operators that did not flatly oppose carriage imposed restrictions on the content of the multicasts.

- WYMT of rural eastern Kentucky is reliant upon cable operators to carry their signal to viewers. Due to unfavorable topography, less than 5% of viewers can receive WYMT's signal off the air. WYMT is currently looking into a 24/7 localized weather channel, and the new CW network with a local focus as well. However, during the last round of retransmission consent, many cable operators balked at the idea of adding any new multicast channels. *The station now anticipates that without multicast carriage rights, it will be unable to provide new programming to serve the public via traditional broadcast because of the unfavorable topography and isolated, rural nature of the region.*

- Duhamel Broadcasting Enterprises brings full HDTV to the communities of western South Dakota, Eastern Wyoming, and the panhandle of Nebraska. Duhamel has plans to expand into the available digital channels to provide local full-time news and weather stations, EAS announcements, and localized programming focusing on schools, government, and local service organizations. *Not one of the several dozen area cable companies agreed to carry any of the proposed digital channels. Cable penetration in Duhamel's broadcast area ranges from 28% to 95%, making assured carriage essential before it is willing to invest in the new channels.*

- WYTV in Youngstown, Ohio is the sole station owned by Chelsey Broadcasting, and has been wholly unsuccessful in securing carriage of its multicast MyNetworkTV affiliate on the basic programming tier, where both Time Warner and Comcast both currently carry an out-of-market and MyNetworkTV affiliate.

- KTVL in Medford, Oregon obtained carriage of its forthcoming CW channel only by agreeing to three highly unreasonable restrictions. First, carriage was made contingent upon KTVL's multicast not competing with other cable channels, and if it did, carriage would be immediately discontinued. Second, the multicast would only be carried by the

operator's digital tier. And third, KTVL was forced to agree that it could not seek payment for carriage of its HDTV programming. Similarly, WKRC of Cincinnati, Ohio is launching a CW channel, which cable viewers w*ill be forced to pay for as a premium service in order to receive it.*

- WWMT in Kalamazoo, Michigan was refused carriage of its forthcoming CW network affiliate multicast by some cable operators serving its market, who cited *capacity constraints* as their reason for denying carriage.

- KWES in Odessa/Midland, Texas has had limited success in obtaining cable carriage for its currently-aired Spanish language multicast channel as well as its LATV network which is launching in a few weeks. LATV will provide music entertainment for both Spanish and English speakers.

- Fisher Communications, a Seattle broadcaster, is in the process of fully transitioning to digital broadcast capability. Currently, the large cable providers refuse to carry all of this digital programming, or condition carriage on terms that would implicate content.

- KTVN in Reno, Nevada broadcasts an HD signal and a 24/7 local weather program stream. However, *the station's local weather multicast is not carried* by Adelphia Communications in neighboring Susanville, CA, and Charter Communications in Reno has relegated it to a digital subscription tier. KTVN has plans to carry one more multicast service in addition to the main HD signal and weather multicast, yet is on hold for further development until the station can be assured that its programming will be provided carriage.

- Journal Broadcasting Group has begun multicasting a 24-hour local weather service in Milwaukee, Wisconsin, and plans to launch a similar all-new, all-local information service focused on traffic information and weather in Las Vegas, Nevada. Although they have been successful in securing carriage for these markets, a major cable operator (that carries Journal's multicast channels in another market) *has inexplicably refused to carry a local multicast news and weather channel for Journal's station KGUN-TV in Tucson, Arizona*.

- KSWO in Lawton, Oklahoma - in addition to HD broadcast, operates a Telemundo multicast station as well as a purely local channel specializing in localized community programming. *KSWO has found it extremely difficult securing carriage on cable outlets for both multicast stations*. If carriage is secured, KSWO plans to purchase additional weather equipment to better serve its audience and plans to produce at least one thirty-minute Spanish language local news broadcast on the Telemundo multicast. Further, if carriage can be guaranteed, KSWO has plans to develop a third, strictly local channel to serve the viewers of the Wichita Falls, Texas-Lawton, Oklahoma DMA.

- KTIV in Sioux City, Iowa was subject to arbitrary and discriminatory actions by a local cable system when the station sought carriage of its multicast streams. The cable system

said that it would carry only two of the station's digital streams. Further, *the cable system made claims that it should have approval rights over the type of programming* broadcast over any of KTIV's digital channels.

- KXXV in Waco, Texas is broadcasting multicast channels Telemundo and a 24/7 local weather channel. *Many cable companies in the area have refused to carry these two channels*.

- WICZ in Binghamton, New York was *forced to negotiate with Time Warner for two years before it could obtain any carriage* of their UPN affiliate, WBPN. This station airs local news, sports and political coverage.

Additionally, cable operators routinely seek unreasonable restrictions affecting multicast carriage. Many of these carriage negotiations are ongoing, and due to their confidential nature, the following examples do not identify the broadcast station, cable operator or media market:

1. A top-5 MSO, in an agreement typical of this MSO's multicast restrictions, will only carry multicast streams that satisfy numerous restrictions on content, including:

   - A restriction o*n any religious programming* if any of such programming airs outside the 12:00 midnight to 6:00 a.m. time period in excess of two (2) hours per day on a Monday-Friday basis and four (4) hours per day on a Saturday-Sunday basis, provided further that no such programming airs within the12:00 noon to 11:00 pm time period.
   - A restriction that the multicast stream not be affiliated with another broadcast television station that is licensed to a community within a Station's DMA that is then being carried by the cable system.
   - A restriction that the multicast stream not be affiliated with or contain programming from a then-existing cable television programming service.
   - A restriction that the multicast stream does not substantially duplicate any other digital program transport stream of the station.

2. In a market which has no local-into-local satellite carriage and no alternative video providers, the dominant cable operator has demanded that it will carry only *two* multicast streams of a network affiliate, *but only if* their full programming is specified in advance and the content never deviates therefrom, *and only if* the network affiliate will enter into a 6 year term with no consideration of any type. The cable operator has refused to negotiate in good faith for the carriage of additional multicast streams in the future, despite the inordinately long term it is requiring. The cable operator has also sought to *have the network affiliate contract away any programming exclusivity rights it may possess* with respect to programming broadcast on multicast streams. Despite negotiating for nine months, the agreement is not yet signed, and recently the cable operator submitted

a new draft that opens a whole host of issues that the network affiliate had believed had already been negotiated and resolved.

3. A top-10 MSO has demanded that it will carry only *one* multicast stream of a network affiliate provided that it is (1) a local weather channel; (2) the multicast stream contains no advertising with messages that "are negative against the cable industry or [the MSO], or portray the cable industry or [the MSO] unfavorably"; and (3) the multicast stream contains no advertising that is competitive to services offered by the MSO, even if they do not relate to video services. This deal remains open after more than six months of negotiations.

4. In a market that is heavily overshadowed by out-of-market duplicating network affiliates, a top-10 MSO has demanded that:

- It will carry only *one* multicast stream of a network affiliate, provided that it consists of the programming of a specific one of the new networks to be launched in September 2006, *and*
- Provided that the network affiliate enter into a 5 year term, *and*
- Provided that the network affiliate contract away programming exclusivity rights it may possess with respect to programming broadcast on both the primary stream and multicast stream in substantial portions of the market, *and*
- Provided that the network affiliate agree to pay the MSO a certain amount of consideration per year for advertising.

We share the same policy goal of serving the public interest. To ensure the viability and continued growth of local, informative, educational, and diverse programming, your continued support of carriage of broadcasters' full digital signals is critical.

Please do not hesitate to contact me if we can provide you with additional information.

Sincerely,

Marsha J. MacBride

Enc.
cc: The Honorable Michael J. Copps, Commissioner
The Honorable Jonathan S. Adelstein, Commissioner
The Honorable Deborah Taylor Tate, Commissioner
The Honorable Robert M. McDowell, Commissioner
Samuel Feder, General Counsel

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
Carriage of Digital Television Broadcast Signals: Amendments to Part 76 of the Commission's Rules	)	CS Docket No. 98-120

SUPPLEMENTAL SUBMISSION BY
CBS AND NBC AFFILIATE ASSOCIATIONS

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June 8, 2006

SUMMARY

The CBS and NBC affiliate associations here update the record in this proceeding with factual information provided by their Board members and other developments that have occurred since the Commission ruled on cable's ability to block viewer access to broadcasters' free multicast services. This additional information confirms and strengthens other data in support of protecting the public against this anti-competitive abuse.

Taken as a whole, the record compellingly demonstrates that (1) cable systems are highly resistant to carriage of broadcasters' multicast services, particularly where they compete now or in the future with services in which those cable systems have an ownership interest; (2) broadcast multicast services manifestly serve the public interest, advance the goals of localism and enhance diversity; and (3) multicasting contributes to the health of the public's free, local and ubiquitous broadcasting service – the continuation of which Congress and the Supreme Court have found to be an important governmental goal justifying reasonable cable carriage requirements.

One of those requirements, mandated by Congress in the 1992 Cable Act, is that cable must not degrade broadcasters' services. Congress found it necessary to adopt this principle because in 1992 cable had the power and the incentive to harm broadcasters' *analog* service. Today, cable's greater power (due to greater penetration, concentration and clustering) and its greater incentives to discriminate against competing programming (due to increased vertical integration and its greatly enhanced competition for local-market advertising dollars), mean that the need to protect the public's access to broadcasters' *digital* service is far greater. And cable's practice of stripping broadcasters' multicast signals is the ultimate act of degradation – it precludes 70% of the viewing public from enjoying access to that programming.

Three other recent developments support the appropriateness of protecting the public against cable's stripping practices. *First*, the federal government's converter box subsidy program adopted by Congress earlier this year when it adopted the hard date for the digital transition imposes heavy financial burdens on the U.S. Treasury. The widespread availability of robust multicast services can help drive digital set purchases prior to the transition and thereby reduce this burden. Cable stripping would thwart that availability. *Second*, the Commission recently issued an inquiry about whether cable had crossed the statutory threshold for the 70/70 rule, thereby triggering the Commission's obligation to consider measures to promote diversity. Multicasting services promote diversity. Assuring the public's access to these services would therefore promote diversity. But the Commission need not find as a factual matter that the 70/70 threshold has been exceeded in order to promote diversity by protecting the public against cable stripping practices. *Third*, it has always been the case that cable carriage of broadcasters' digital signals, *including all free multicast services*, would take up half the capacity as cable's carriage of broadcasters' analog signals. In addition, even in the past 16 months, cable continues to expand capacity. The burden-on-cable argument is therefore spurious. Legislators and regulators should not be misled by it.

Commission action to prevent cable stripping of broadcasters' free multicast services would faithfully implement the directives of the 1992 Cable Act and would substantially serve important governmental interests. Now is the time for the Commission to take this action.

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Before the
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Washington, D.C. 20554

In the Matter of:	)	
Carriage of Digital Television Broadcast Signals: Amendments to Part 76 of the Commission's Rules	)	CS Docket No. 98-120

SUPPLEMENTAL SUBMISSION BY
CBS AND NBC AFFILIATE ASSOCIATIONS

Over a year ago, the ABC, CBS, and NBC affiliate associations, as well as stations owned by ABC, NBC and Telemundo, filed a Petition for Reconsideration urging the Commission to protect audience access to digital broadcast multicast services – access that is threatened by cable operators' stripping these services out of the broadcast signal before they retransmit it.[1] Prompted by new developments and based on the experiences of their Board members, the CBS and NBC television affiliate associations here submit this Supplemental Submission in support of protecting these free multicast services to the public free from cable obstruction. Since the Petition was filed, the quality and quantity of broadcasters' multicast services have grown, but so also has the need for protection against cable stripping. To wit, Congress has fixed a date of February 19, 2009 for completion of the digital transition along with

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[1] Petition for Recon. of the ABC Television Affiliates Ass'n, CBS Television Network Affiliates Ass'n, NBC Television Affiliates, ABC Owned Television Stations, and NBC and Telemundo Stations, *Carriage of Digital Television Broadcast Signals: Amendments to Part 76 of the Commission's Rules*, CS Docket No. 98-120 (filed Apr. 21, 2005) ("Petition").

The Petition was one of many filed in response to the Commission's February 2005 decision on multicasting, *Carriage of Digital Television Broadcast signals: Amendments to Part 76 of the Commission's Rules*, Second Report & Order & First Order on Recon., 20 FCC Rcd. 4516 (2005) ("Multicasting Order").

a converter box government subsidy program, the financial burdens of which would be greatly alleviated by the broad acceptance of multicast services.[2] Also relevant is the Commission's inquiry about whether cable has passed the so-called 70/70 threshold[3] and, therefore, whether the Commission should take measures to promote greater program diversity. Most compelling of all, the evidence shows that cable systems strip 91% of commercial stations' 434 multicast services that are provided to the public in 163 of the country's 210 television markets. These developments, and others, call for the Commission to clear the way for the public to access broadcasters' free multicast services.

To facilitate the Congressionally mandated digital transition, the Commission must promptly ensure that appropriate rules are in place for the new digital environment. Indeed, the Commission has made much commendable progress toward that end. However, the issue of cable's treatment of multicast services remains open. The Commission is not without important Congressional guidance on this issue. In the 1992 Cable Act Congress directed the Commission to adapt the analog carriage rules that Congress had mandated, including the anti-degradation principle, to broadcasters' new digital operations, should now apply that anti-degradation principle to cable's stripping of broadcasters' multicast services and thereby ensure the public's access to these services.

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[2] Digital Television Transition and Public Safety Act of 2005 §§ 3002, 3005, Pub. L. 109-171, 120 Stat. 21, 23 (2006).

[3] Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Twelfth Annual Report, MB Docket No. 05-255, FCC 06-11 (rel. March 3, 2006). *See also* 47 U.S.C. § 532(g) (providing that when cable systems with 36 or more activated channels are available to 70 percent of households within the United States and when 70 percent of those households subscribe to them, the Commission may promulgate any additional rules necessary to promote diversity of information sources).

I. CABLE STRIPPING OF BROADCASTERS' DIGITAL SIGNALS BLOCKS PUBLIC ACCESS TO MULTICAST SERVICES, THREATENS THE VIABILITY OF EXISTING MULTICAST SERVICES AND DETERS THE INAUGURATION OF NEW SERVICES.

Cable has not denied that multicast services must have cable carriage in order to have a chance to succeed in the marketplace. After all, on average cable wields bottleneck power over 70% of a television station's viewers. Without cable carriage, broadcasters' multicast services will not be launched or, if launched, they will not survive. The record prior to the filing of petitions for reconsideration provided numerous examples of cable's resistance to carriage of these services.[4] Experience since the Commission's 2005 *Multicasting Order* confirms that threat, and statistics from the technology firm, Decisionmark, that will be submitted separately to the Commission by the National Association of Broadcasters show that cable blocks viewer access to all but 9% of the multicast services aired by commercial stations across the country.[5]

As the following examples demonstrate, cable is particularly likely to strip out multicast services from broadcast signals when those services directly compete with cable's own product.

- Maranatha Broadcasting Company is a small local broadcaster in Allentown, Pennsylvania, which developed a multicast service recognized by *Broadcasting & Cable* as the nation's "first all-local, 24-hour digital weather channel."[6] This

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[4] Except where noted, the information in this Submission was provided in response to recent requests for information from the CBS and NBC affiliate associations to their Board members for the purpose of updating the record in this proceeding. The responses to those inquiries overwhelmingly indicated that multicasting figured prominently in stations' future plans, but that stations were gravely concerned that existing or planned multicasts would not be sustainable unless carried on cable.

[5] Additional statistics from the NAB/Decisionmark study are attached as Exhibit A.

[6] Maranatha Broadcasting Co., Reply Comments, CS Docket No. 98-120, at 1-2 (filed Jun. 9, 2005).

service competed directly with The Weather Channel, a national cable network that includes limited local inserts. Despite the fact that Maranatha's multicast would have provided substantial new services to Comcast's subscribers – The Weather Channel's 24-hour offering includes minimal local weather information, while Maranatha's featured locally originated weather content and live video weather – Comcast refused to carry it under any circumstances.[7]

- A free, broadcast-based children's network was developed for multicast distribution by DIC Entertainment Corp. that featured an extensive pre-existing library of owned and valued children's programming.[8] Although DIC remains interested in launching this network, it has found the inability to obtain sufficient cable carriage to be a significant impediment, since the "DIC Kids Network" would compete for viewers and advertisers with cable children's channels, whose success deliver profits to cable operators.

- It took the Media General Broadcast Group 15 months to persuade Time Warner to alter its standard policy of carrying no multicasts services at all. Ultimately, it was able to obtain carriage of one of its multicast service by Comcast, but only in exchange for an agreement not to seek carriage of Media General stations in certain other markets.

- Several smaller cable operators have threatened to file complaints at the Commission alleging bad faith retransmission consent negotiations by Media General, simply because it *requested* – not insisted on – those systems' carriage of its multicast services.

- In negotiations with broadcasters, Comcast has admitted that its carriage decisions are motivated by a desire to avoid creating competition for Comcast's existing channels. Comcast has told broadcasters that it would refuse to carry a localized multicast service based on its desire to avoid competition for local advertising sales.[9]

- Hearst-Argyle television stations have been unsuccessful in obtaining multicast carriage from cable operators that admit they are refusing to carry multicast

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7 *Id.* at 5-6.

8 Petition for Recon. of DIC Entertainment Corp., CS Docket No. 98-120 (Apr. 21, 2005).

9 The two largest cable operators, Comcast and Time Warner, were also recently sued by an independent cable programmer claiming that the companies "engaged in persistent and extensive discrimination against independent programming networks" in favor of networks in which they had an interest. "Time Warner, Comcast sued over Adelphia plans," Reuters (May 30, 2006), *available at* http://today.reuters.com/investing/financeArticle.aspx?type=mergersNews&storyID=2006-05-31T001638Z_01_N30457427_RTRIDST_0_MEDIA-TIMEWARNER-COMCAST.XML.

programming because it may be competitive with cable programming in which those cable operators have a financial interest. Cable operators that did not refuse to carry Hearst-Argyle multicasts outright imposed conditions on the content of the programming that the broadcaster could air on its multicasts.[10]

- WYTV, Youngstown, Ohio, is the single station owned by Chelsey Broadcasting, and it accordingly negotiates at a disadvantage with the larger cable operators in its market. The station has been unsuccessful in obtaining a commitment for carriage of its multicast, a MyNetworkTV affiliate which will launch in September, from Comcast, and Time Warner has refused to carry WYTV's multicast in its basic programming tier, where it carries other broadcast stations, including an out-of-market MyNetworkTV affiliate.[11]

- Cincinnati, Ohio CBS affiliate WKRC-TV is launching a multicast affiliated with the CW. But, because local cable operators have refused to carry WKRC's free CW multicast in the same tier as its CBS programming, cable subscribers in WKRC's service area will have to pay for premium service in order to receive it.[12]

- KVBC-TV, Las Vegas, Nevada, which airs a multicast providing local weather and news programming, faced resistance from Cox Communications when attempting to obtain carriage. Although Cox ultimately relented after negotiations with the broadcaster, Cox's initial response was to decline carriage, citing capacity constraints.

- KTVL, Medford, Oregon was able to obtain carriage of the CW-affiliated multicast it will launch this fall from the largest cable operator serving its market only by agreeing to three conditions: (1) carriage will be discontinued if KTVL's multicast competes with other channels carried by the cable operator; (2) the multicast will be carried only in the operator's digital tier, not in its basic tier along with other local broadcast stations; and (3) KTVL may not seek payment for carriage of its HDTV programming.

- WWMT, Kalamazoo, Michigan is planning to launch this fall a CW-affiliated multicast. Although two cable operators have agreed in principle to carry WWMT's multicast, other operators serving its market have refused to consider carriage, citing capacity constraints.

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10 *NBC Affiliates Submission* at Exh. B, ¶ 7 (Declaration of David J. Barrett).

11 Comments of Dave Trabert, General Manager, WYTV, CS Docket No. 98-120 (filed Jun. 5, 2006).

12 Rick Bird, *Ch. 12 Signal to Carry CW Network*, Cincinnati Post C9 (Apr. 22, 2006).

- Also, when multicasts are carried, they are often placed in a high-numbered digital programming tier, not in the basic tier that is familiar to most viewers, thereby impeding viewer awareness of the multicasts service.

- Even when multicast carriage is obtained, cable systems commonly reserve the right to strip the service at a later date. That threat can be a critical deterrent to a broadcaster undertaking the often heavy investment of launching a new service. Comcast, for example, seeks provisions in carriage agreements that permit it to strip a broadcaster's multicast service from its digital signal if, at any point, the Comcast cable system develops a competitive channel. Other cable operators demand in carriage agreements similarly onerous provisions that regulate the content of multicasts.[13]

This evidence of cable's pattern of blocking access to broadcast offerings, while anecdotal, is even stronger than the evidence that motivated Congress to adopt the analog carriage and non-degradation rules in 1992. It is evidence that the Commission has not yet factored into, and clearly should, its structuring of digital rules in the public interest. The above-cited Decisionmark evidence of cable stripping practices, though based on station reporting is not anecdotal and is a compelling reminder of the need to protect the public against cable's bottleneck power.

* * *

A number of factors underlie cable's threat to obstruct subscribers' access to broadcasters' free multicast offerings. In enacting the carriage requirements of the 1992 Cable Act, Congress made findings about cable's bottleneck power over video services' access to a majority of American homes. Since then, cable's power has increased by virtue of its increased penetration. That power has also increased because of cable's rapid and intensive clustering.[14]

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[13] Letter from Colleen B. Brown, Fisher Communications, Inc., to Kevin J. Martin, Chairman, FCC, CS Docket No. 98-120 (Jun. 5, 2006).

[14] When a market has six cable systems serving it, the cable systems do not compete directly with each other. But a broadcaster that negotiates successfully for carriage on three systems can build a foundation of existing viewers and thereby provide market incentives for (continued…)

The cable industry's continuing consolidation has also heightened its life-or-death leverage over other program services, including broadcasters' multicast services.[15]

In the Cable Act, Congress also made findings about cable's incentives to thwart viewer access to broadcast signals, this incentive being based on cable's desire to favor its own vertically integrated programming and its desire to disadvantage free, over-the-air television as a competitor for viewers. Just as cable's power has broadened and deepened since 1992, so also has its incentive to discriminate. Vertical integration has increased[16] and cable's competition with broadcasters for local advertising revenues has increased many-fold.[17]

The fact that cable operators profit from investments in programming providers and sales of local advertisements on cable channels provides ample incentive for them to avoid carriage of independent programming, even if their subscribers clamor for it. One high profile

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other systems in the same market to carry those services. But where cable operator controls 90% of a market, as is the case in many markets today, that one system's refusal to carry a multicast channel is equivalent to a commercial death knell.

[15] The increase in clustering and consolidation by cable operators has been a cause for much concern on the part of the Commission and the public. *See, e.g.*, *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Twelfth Annual Report, MB Docket No. 05-255, FCC 06-11, at ¶¶ 154-55 (rel. Mar. 3, 2006). *See also* Response of the Nat'l Ass'n of Broadcasters to Comments and Petitions to Deny, *Applics. of Adelphia Comms Corp., Comcast Corp. and Time Warner Inc.*, MB Docket No. 05-192 (filed Aug. 5, 2005).

[16] In its most recent report to Congress on the status of competition in video programming delivery market, the Commission reported that five of the top seven cable operators hold ownership interests in national programming networks, and that cable operators collectively hold interests in a striking 21.8 percent of all satellite-delivered national programming networks. *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Twelfth Annual Report, MB Docket No. 05-255, FCC 06-11, at ¶¶ 157, 159 (2006).

[17] *See* Comments of Bear, Stearns, MM Docket Nos. 01-235 and 96-197 at 7-11, 13-22 (filed Dec. 3, 2001). The Commission has similarly noted that broadcasters face continuing pressure on broadcast advertising revenues, and that cable operators are major competitors for local advertising revenues. J. Levy *et al.*, OPP Working Paper #37, Broadcast Television: Survivor in a Sea of Competition, at ii, 134-35 (Sept. 2002) (cited in Reply Comments of the Nat'l Ass'n of Broadcasters, MB Docket No. 02-277, at 19 n.30 (filed Feb. 3, 2003)).

example is Comcast's refusal to carry on its metropolitan Washington systems the Mid-Atlantic Sports Network, which airs Washington Nationals baseball games. Despite pressure from its subscribers, Congress and the government of the District of Columbia, Comcast has steadfastly refused to carry this content.[18]

In short, since the Commission's *Multicasting Order* 16 months ago, cable has become increasingly clustered and vertically integrated. Thus, the need to protect the public from cable's threat of multicast stripping is clearer, more powerful and, as shown above, better documented.

II. LOCAL BROADCASTERS CONTINUE TO LAUNCH AND STRENGTHEN NEW MULTICAST SERVICES THAT ADVANCE THE PUBLIC INTEREST.

According to Decisionmark statistics provided separately to the Commission by NAB, 434 commercial broadcasters have brought to American viewers 624 multicast services in 163 of the 210 television markets across the country.[19] Nearly 78% of the country's television markets are served by multicasts, with many more about to be launched.[20]

Here are some examples of those services.

- WLAJ, Lansing, Michigan, will launch this September a second stream of programming, which will feature local news, sports, and weather, as well as Big Ten college basketball and football coverage. WLAJ, whose community includes a large state university, will offer on its multicast a local sports talk show, as well as a local women's program and other local offerings. The WLAJ multicast will also bring national programming from the CW network to the station's community to which it would not otherwise have access.

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18 News & Notes, "Williams Signs Bill Requiring Comcast to Show Nats Games," *Washington Post* E2 (May 24, 2006), *available at* http://www.washingtonpost.com/wp-dyn/content/article/2006/05/23/AR2006052301518.html.

19 Broadcasters do not provide multicast services at the expense of high-definition television programming. Many stations broadcast both multicast and HDTV content.

20 *See* Exhibit A.

- WREG-TV, Memphis, Tennessee, presently carries a 24-hour local news and weather channel. While the station's most recent local news broadcast is shown on the multicast service, an "L-bar" displays up-to-the-minute local weather information for the station's viewing area. Whenever there is severe weather in its market, the WREG-TV multicast provides coverage of the weather situation for as long as the station's viewing area is affected.

- Last year, numerous NBC affiliates, the NBC owned-and-operated stations, and the NBC network, launched NBC WeatherPlus, which consists primarily of local weather forecasts and coverage by local station meteorologists. National weather inserts are included, but the emphasis is on local weather information plus local traffic, other community information, and Amber Alerts. NBC WeatherPlus served a key role, for example, in providing emergency coverage of Hurricane Katrina, at a time when cable systems were not functioning.[21] But a month before Katrina hit, the New Orleans *Times-Picayune* reported that New Orleans cable operators Cox Communications and Charter Communications had no plans to add the NBC WeatherPlus service offered by local affiliate WDSU to their line-ups.[22]

- Weather is critical in south Florida, especially in light of direct hits from three hurricanes over the past two seasons. WPEC, West Palm Beach, operates a local weather channel that provides 24/7 access to its local Doppler radar, seven-day forecasts and live weather cameras. If WPEC is able to obtain cable carriage of its multicast weather stream, it plans to dramatically expand this programming to include 24/7 local news and weather updates, plus expanded coverage of breaking local news and local programming such as political debates and other issues of local importance.

- ION Media Networks, licensee of 60 television stations, has announced plans to launch a children's multicast service featuring bilingual content, tentatively called the "Smart Place for Kids."[23] In addition, it announced last week that it would inaugurate the country's first 24-hour broadcast network devoted to consumer healthcare and healthy living. The network, tentatively called "I-Health," will include talk shows, reality programs, and educational and motivational series

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21 *Weather Plus All Over NBC Map*, Reuters (Aug. 31, 2005), *available at* http://entertainment.tv.yahoo.com/entnews/va/20050831/112548180100.html.

22 Dave Walker, "Local weather, all the time: WDSU launches a 24-hour weather channel, but only a handful of digital TV viewers can see it," *The Times-Picayune* C-1 (Aug. 8, 2005) (attached hereto at Exhibit B).

23 ION Media Networks, "ION Media Networks, Scholastic, NBC Universal, Corus Entertainment, and Classic Media/Big Idea Unite to Launch Groundbreaking Multi-platform Network for Children," Press Release (May 8, 2006), *available at* http://www.ionmedia.tv/press/press.cfm?id=4.

dedicated to helping viewers lead healthier lives. I-Health is slated to air on the multicasts of ION television stations nationwide.[24]

- KTVB, Boise, Idaho, has launched a 24-hour all-local news channel that is dedicated to coverage of local news, weather, and sports. KTVB's multicast specializes in what the station calls "hyper-local" news; that is, coverage of news events that are of importance to the local community but would not generally be aired on a station's regular news broadcast, such as mayoral addresses, local sports, and local elections, including debates between candidates for Congress and state Superintendent of Education. KTVB has also developed a program called "It's Your Time," which provides a forum for government officials and political candidates to address the community.

- WFAA-TV, Dallas-Fort Worth, KENS-TV, San Antonio, and KVUE (TV), Austin, have used their multicast capabilities to cover news events of importance to Texas viewers that require more extended coverage than would be possible in a traditional newscast. For example, KENS-TV provided extended coverage of the Republican and Democratic National Conventions, Hurricanes Katrina and Rita, and the FCC's hearing on localism held in San Antonio. KVUE (TV) has also used its multicast to cover Hurricanes Katrina and Rita, as well as local breaking news such as a press conference by the Texas governor concerning border control issues. WFAA-TV has used its multicast to provide extended local news coverage, such as marches concerning immigration issues that occurred recently in the Dallas-Forth Worth area. The stations plan to expand their coverage of local events, to include local trials, municipal government proceedings, high school and college sports, and other local programming. In addition, they plan to develop programs covering the journalistic process in order to provide greater transparency to viewers of their regular news programs.

- WISH-TV, the CBS affiliate in Indianapolis, Indiana, multicast the NCAA basketball tournament games. This programming was particularly relevant to viewers in Indianapolis, a market with heavy interest in college basketball, and in which six of the state's men's college teams qualified for the first round of the tournament. To increase the availability of this programming to viewers, WISH-TV established three public venues at which members of the public could watch the multicasts.[25]

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[24] ION Media Networks, "ION Media Networks to Launch New Digital Health Network; Consumer Health Programming Serving Vital Community Needs to Launch on Largest TV Station Group," Press Release (May 31, 2006), *available at* http://home.businesswire.com/portal/site/google/index.jsp?ndmViewId=news_view&newsId=20060531005790&newsLang=en.

[25] "THOMSON and WISH-TV Collaborate To Demonstrate Remarkable Flexibility of America's Digital Television System," Press Release (Mar. 16, 2000), *available at*
(continued...)

- Stations across the country affiliated with one of the "big four" networks are using their multicast streams to affiliate secondarily with a smaller network such as the CW or MyNetworkTV. These secondary affiliations occur in markets that are not large enough to support an independent smaller network affiliate, permitting these communities to receive access to additional quality network programming.

- During and after Hurricane Katrina, Belo Corp.'s WWL-TV, New Orleans, Louisiana, remained on the air. In order to provide information about recovery efforts to residents of New Orleans who had evacuated, Belo stations across the country – including stations in Chicago; Boston and Springfield/Holyoke, Massachusetts; Syracuse and Albany, New York; Hartford/New Haven, Connecticut; Birmingham, Alabama; and Panama City, Florida – simulcast WWL-TV's hurricane coverage on their multicast streams.[26]

- KSWO-TV, Lawton, Oklahoma, operates two multicast streams. Its first carries Telemundo Spanish language programming to Spanish-speaking viewers, as well as Spanish language broadcasts of Dallas Cowboys pre-season games and special programs concerning the Cowboys. The station's second stream provides local weather, news, and special programming, including a program called "Working for You," which provides information about efforts to promote economic development in the station's community. This local stream also carries local high school and college sports.[27]

- WRAL-TV, Raleigh, North Carolina, carried on a multicast live coverage of a celebrated murder trial taking place in the station's community. The story was one of broad local interest, but not one for which the station would have preempted network shows on its analog channel.[28]

- WNBC, New York, New York, will launch this September a multicast called "WNBC4.4," which will offer "a hyper-local mix of repurposed and original arts and entertainment programming, as well as content provided by local New York organizations and viewers." To provide this content, the station is partnering with such leaders in the New York City arts and entertainment community as the Tribeca Film Festival, Lincoln Center, MOMA, the New York Public Library,

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http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=104&STORY=/www/story/03-16-2000/0001167303&EDATE=.

26 WWL-TV continues broadcasts to serve struggling communities, overcomes major challenges following Hurricane Katrina, Press Release (Sep. 3, 2005), *available at* http://www.belo.com/pressRelease.x2?release=20050903-772.html.

27 Comments of KSWO Television Inc., CS Docket No. 98-120 (filed Jun. 5, 2006).

28 Neil Hickey, "TV on Steroids," *Columbia Journalism Review* (Mar./Apr. 2004) (attached hereto at Exhibit C).

and the Bronx Zoo. It will also offer viewer-contributed content, which the station calls "blogging for TV."[29]

Additional examples of broadcasters' innovative use of multicasting were included in declarations attached to the special factual submissions of the CBS and NBC affiliate associations filed with the Commission in January 2004.[30]

III. MULTICAST CARRIAGE STRENGTHENS THE VIABILITY OF THE PUBLIC'S FREE, UNIVERSAL AND LOCAL TELEVISION SERVICE.

The Commission, Congress and the Supreme Court have all found that the health of the public's over-the-air television service is an important governmental interest that justifies the Commission's various cable carriage rules, including the fundamental protection against cable degradation of that service. The recent debates over network neutrality have reinforced the importance of maintaining broadband video delivery alternatives that are independent of cable and telcos. No such delivery service, other than broadcast television, is already 100% built out and free to the consumer.

As every other form of communications embraced digital technologies, as the old single-channel video model was overtaken by the proliferation and expansion of multichannel *pay* services, as broadcast network compensation to local affiliates was eliminated or turned into "negative comp," as the expense of the digital transition taxed local broadcast station finances, and as cable systems, with hundreds of channels on which to sell advertising, gobbled up a far

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[29] Katy Bachman, "WNBC Adds Second Multicast Channel," *MediaWeek* (Apr. 10, 2006), *available at* http://www.mediaweek.com/mw/news/tvstations/article_display.jsp?vnu_content_id=1002314195.

[30] *See* Special Factual Submission by the CBS Television Network Affiliates Ass'n in Support of Multicast Carriage Requirement, CS Docket Nos. 98-120, 00-96 & 00-2 (Jan. 13, 2004) ("CBS Affiliates Submission"); Special Factual Submission in Support of Multicast Carriage by the NBC Television Affiliates Ass'n, CS Docket Nos. 98-120, 00-96 & 00-2 (Jan. 8, 2004) ("NBC Affiliates Submission").

larger share of local advertising revenues, the health of local broadcasting has suffered. For example, a 2002 study by NAB found that the pre-tax *profit* of the fourth-rated station affiliated with a big-four network in markets 51-175 averaged $2,428,903 in 1997. However, in 2001 the same fourth-ranked station in those markets averaged a pre-tax *loss* of $2,820,270.[31] BIA Financial Network has estimated that the total revenues generated by local television stations nationwide decreased by 7.9% in 2005.[32] As a consequence, often to achieve survival, small-market broadcasters have had to cut or even eliminate local news and other local programming services.[33] In short, localism is in jeopardy.

Multicasting allows broadcasters to offer consumers new value, attract new audiences and new advertisers, and thereby strengthen the financial base on which the nation's free television system relies. Multicasting services that focus on local news, local sports and local civic events may entail few additional expenses while rendering greater service to the community and adding to stations' financial staying power. And while cable advocates opposed broadcasters' petitions for reconsideration in this proceeding, they did not dispute that cable carriage was essential to the viability of these services or that multicast services can substantially contribute to broadcasting's future health.[34]

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[31] NAB, *The Declining Financial Position of Television Stations in Medium and Small Markets* at 5-9 (Dec. 2002) (submitted as Appendix C in Comments of NAB, MB Docket No. 02-277 (Jan. 2, 2003)) (cited in *Petition* at 7-8). *See also NBC Affiliates Submission*, at 16; *NBC Affiliates Submission*, Decl. of Craig Dubow, President, Gannett Broadcasting Co., at ¶ 11 (Jan. 7, 2004).

[32] Mark R. Fratrik, *A Review of the Economic Benefits of Multicast Must Carry*, at 5 n.11 (Jun. 5, 2006) (attached to Letter from Jerianne Timmerman, National Ass'n of Broadcasters, to Marlene H. Dortch, Secretary, FCC, CS Docket No. 98-120 (filed Jun. 6, 2006)).

[33] *NBC Affiliates Submission* at 16, Exh. A ¶¶ 6-8, Exh. C ¶¶ 10-11.

[34] *See, e.g.*, Opposition of Comcast Corp. to Petitions for Recon., MB Docket No. 98-120 (filed May 20, 2005); Opposition of Cablevision Systems Corp. to Petitions for Recon, CS (continued...)

IV. OTHER RECENT DEVELOPMENTS CONFIRM THE NEED FOR ANTI-STRIPPING PROTECTION.

In addition to a mounting of cable stripping since the Commission's *Multicasting Order* in February 2005, various additional developments have occurred that further strengthen the case for prohibiting cable blockage of the public's access to broadcasters' free multicast services.

First, since the Commission's multicast decision 16 months ago, Congress has now set a February 19, 2009, deadline for the digital transition, the so-called "hard cut-off date" – a decision that broadcasters supported if combined with resolution of various other issues, including anti-stripping. Concerned that the hard cut-off date could disenfranchise millions of American homes without access to digital reception capability, either over-the-air or via converter boxes, Congress also established a converter-box subsidy program of almost $1 billion dollars to be administered by the Commerce Department.[35] The wide availability of attractive multicast services will encourage viewers to buy digital sets prior to the cut-off date, thereby reducing the need for recourse to these subsidy funds. It follows, therefore, that cable carriage of multicast services will facilitate the operation of this marketplace incentive and reduce the burden of the transition on the U.S. Treasury.

Docket No. 98-120, at 8 (May 26, 2005) (acknowledging that competition from MVPDs has caused significant financial hardship to broadcasters). *See also NBC Affiliates Submission*; *CBS Affiliates Submission.*

[35] Digital Television Transition and Public Safety Act of 2005 § 3005, Pub. L. 109-171, 120 Stat. 23 (2006).

Second, earlier this spring the Commission asked for comment on whether the so-called "70/70 test" has been met.[36] This test, contained in Section 612(g) of the Communications Act, provides that when cable systems with 36 or more channels pass 70 percent of American households and 70 percent of those households subscribe to cable services, then the FCC "may promulgate any additional rules necessary to provide diversity of information sources."[37]

Whether or not the Commission finds that the "70/70" threshold has been met, this statutory requirement reflects Congress's deep concern about program diversity. Cable systems typically control hundreds of program channels. Now broadcast television, through the bounty of the digital technology that that industry spent years and vast sums to develop, has the opportunity to offer the public three or four new multicast services per station, instead of just a single channel of programming, and thereby to add diversity to the public's viewing options. Yet cable resists this development, balks at carriage, and insists on maintaining its unchecked power to obstruct subscriber access to this programming, which equates to the power to abort these additional sources of diversity.[38]

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36 *See* 47 U.S.C. § 532(g).

37 *Id.*

38 Children's program advocates and African-American members of the medical profession have urged that these sources of additional diversity be protected against cable stripping. *See* Ex Parte Submission of the National Medical Ass'n, CS Docket No. 98-120 (filed Mar. 25, 2004); Ex Parte Submission of the Black Educ. Network, CS Docket No. 98-120 (filed Jan. 28, 2004). For similar reasons, the Minority Media Telecommunications Council has supported multicasting. Minority Media Telecommunications Council, Petition for Partial Further Recon., CS Docket No. 98-120 (filed Apr. 21, 2005). So also have the American Corn Growers Association, American Federation of Labor - Congress of Industrial Organizations (AFL-CIO), American Federation of Television and Radio Artists (AFTRA), Black Education Network, Communications Workers of America/National Association of Broadcast Employees and Technicians (CWA/NABET), DIC Entertainment Corp., Hispanic Technology and Telecommunications Partnership, International Association of Theatrical Stage Employees (IATSE), International Brotherhood of Electrical Workers, International Brotherhood of Electrical Workers, Langston University, Minority Media & Telecommunications Council, (continued...)

Third, Cable's arguments about the burden of multicast carriage was never a real issue because carriage of the full digital signal, including all of its multicast components, requires only 3 MHz of capacity, as compared to the 6 MHz required for analog signal carriage.[39] *This means that no existing cable programming service will have to be withdrawn from the public in order to accommodate multicast carriage.* Moreover, cable system has increased dramatically since 1992 and have continued to do so since *Multicasting Order*. As a result of all these factors, the proportion of a cable system's capacity required for full digital carriage, including all free multicast services, is a mere fraction of the burden that Congress found acceptable in the 1992 Cable Act and that the Supreme Court upheld in *Turner Broadcasting System v. FCC*.[40]

* * *

In the *Turner II* case, the Supreme Court recognized that Congress's analog carriage rules served two important governmental goals: (1) preserving the benefits of free, local broadcasting for viewers – not only over-the-air but cable and satellite subscribers as well, and (2) promoting the widespread dissemination of information from a multiplicity of sources.[41] A Commission decision in the new digital environment to apply the Congressionally mandated

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National Association of Farmer Elected Committees, National Farmers Union, National Grange, National Medical Association, National Puerto Rico Coalition, Inc., Rural Coalition, Rural Television Alliance, Soybean Producers of America, United States - Mexico Chamber of Commerce, and Women in Farm Economics.

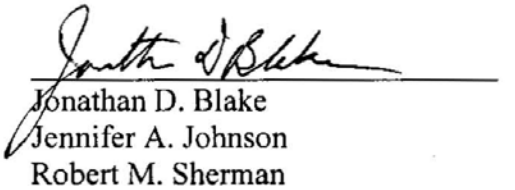
[39] *See* Letter from the Broadcast Companies Represented on the Boards of the NBC Television Affiliates and the CBS Television Network Affiliates Ass'n to Marlene H. Dortch, Secretary, FCC, CS Docket No. 98-120 & MB Docket No. 03-15 (filed Nov. 4, 2004).

[40] 520 U.S. 180 (1997) ("Turner II").

[41] *Id.* at 189-90.

anti-degradation principle to the threat of cable's stripping multicast services would plainly "advance [these] important governmental interests."[42]

Respectfully submitted,



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June 8, 2006

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42 *Id.* at 189 (citing *United States v. O'Brien*, 391 U.S. 367, 377 (1968)).

CERTIFICATE OF SERVICE

I hereby certify that, on this 8th day of June, 2006, I caused copies of the foregoing Supplemental Submission by CBS and NBC Affiliate Associations to be served on the following by first-class mail, postage prepaid.

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EXHIBIT A

EXHIBIT A

DECISIONMARK STATISTICS ON BROADCAST MULTICAST SERVICES AND DEGREE OF CABLE STRIPPING

- **696** television stations, in **177** of the country's 210 television markets, are currently multicasting.
- Of these stations, **434** are commercial television stations, which serve **163** markets.
- The nation is currently served by **1,224** multicast services, only **192** of which – or **16%** of the total – are carried on at least one in-market cable system.[1]
- **624** of these multicast services are broadcast by commercial stations.
- Only **56** multicast services provided by commercial stations, or **9%** of the total presently on the air, are being carried by at least one in-market cable system.

Source: National Association of Broadcasters study conducted by Decisionmark Corp. June 5, 2006

[1] Cable carriage statistics are based on information reported by stations to Decisionmark.

EXHIBIT B

The Times-Picayune

50 CENTS 169th year No. 199 | MONDAY, AUGUST 8, 2005 | METRO EDITION

Local weather, all the time

WDSU launches a 24-hour weather channel, but only a handful of digital TV viewers can see it

DAVE WALKER

On the Air

Weekend-morning local newscasts blew into town with Tropical Storm Cindy and Hurricane Dennis, but the biggest innovation in New Orleans TV-news programming is a new 24-7 weather feed from WDSU-Channel 6.

Available for the time being only to viewers in the digital-TV vanguard, NBC's Weather Plus, a non-stop meteorology feed carrying national and local weathercasts, has begun airing on a WDSU digital sub-channel.

Currently, only viewers who can get digital over-the-air TV signals — and you know who you are if you can — will be able to see the new channel, which features local inserts, recorded by WDSU weathercasters, that rerun throughout the day and night with regular updates.

When conditions

See WALKER, C-8

'Weather Plus' channel will feature recorded forecasts from WDSU weathercasters, 'breaking weather' updates and an L-shaped graphic giving neighborhood temperatures.

WDSU weather goes full time

WALKER, *from C-1*

dictate, "breaking weather" reports will be inserted.

Framing the action is an L-shaped graphic giving temperatures and forecasts specific to several local neighborhoods.

Last week, the five-day forecast for most of them appeared to be — no surprise — hot with a chance of thunderstorms.

WDSU News Director Anzio Williams said that the new neighborhood-specific service will likely not reduce weather-warning interruptions in regular programming on WDSU.

"Our first job is to protect the community when severe weather threatens lives, property, homes," he said. "We'll still be very aggressive."

Promoting the launch of Weather Plus during a weeknight newscast last week, a WDSU anchor encouraged viewers to contact local cable companies to inquire about Weather Plus — a polite nudge on a sticky issue that appears far from resolved.

A few dozen cable subscribers were apparently motivated to make that call, but a spokesman for Cox Communications said the south shore cable provider has no current plans to add the service, and a customer-service rep for Charter Communications on the north shore said the service is not currently in the lineup there and didn't know if or when it might be added.

> . . . a spokesman for Cox Communications said the south shore cable provider has no current plans to add the service . . .

Nationally, cable carriage of broadcasters' digital sub-channels is a speed bump in the DTV transition, with business and political implications that reach far beyond the New Orleans market.

Still, WDSU says it's pursuing local cable distribution for its new service, which for now remains in the intimate domain of the comparative handful of viewers who can get antenna-received digital pictures.

There's no way to say how many viewers that is. WDSU doesn't know, according to a spokesman, and national DTV penetration statistics can't be reliably distilled to conjure a meaningful local audience figure.

One recent published estimate says that 16 million of America's 110 million TV households are DTV-enabled, but that's probably high. Can even 10 percent of local viewers get Weather Plus right now?

Probably not.

Williams said he's in the process of hiring a new meteorologist to help staff the new feed.

The fresh hire will also pitch in on WDSU's new weekend newscasts, inserted in the lineup to capitalize on perceived viewer inertia built by intensive live coverage of recent tropical storms.

"The storm coverage was a catalyst for it," Williams said. "That pretty much got it moving."

All of a sudden, WDSU sandwiches NBC's weekend "Today" with local news Saturday from 6-7 a.m. and 9-10 a.m., and Sunday from 6-7 a.m. and 8-10 a.m.

"The ratings and the response from the community pretty much told us that this was something we needed to do," Williams said. "There's a festival happening every weekend somewhere in our area. Imagine on a Saturday or Sunday morning having no place to get live local news and weather."

So far, weekday anchors, reporters and producers have worked extra shifts to help get the new newscasts on the air.

WDSU will eventually hire about a dozen new journalists, including two new anchors, to staff the new programs.

Meanwhile, said Williams, "We can do a lot more as a team."

One member of that team remains Alec Gifford, whose weekend current-events program was supplanted by the new newscasts.

Reached by phone for comment, he deflected to Williams, who said that Gifford, a five-decade veteran of local TV news, will continue to contribute long-form news-maker interviews to the new product.

"Oh, absolutely," Williams said. "He'll still play a huge role."

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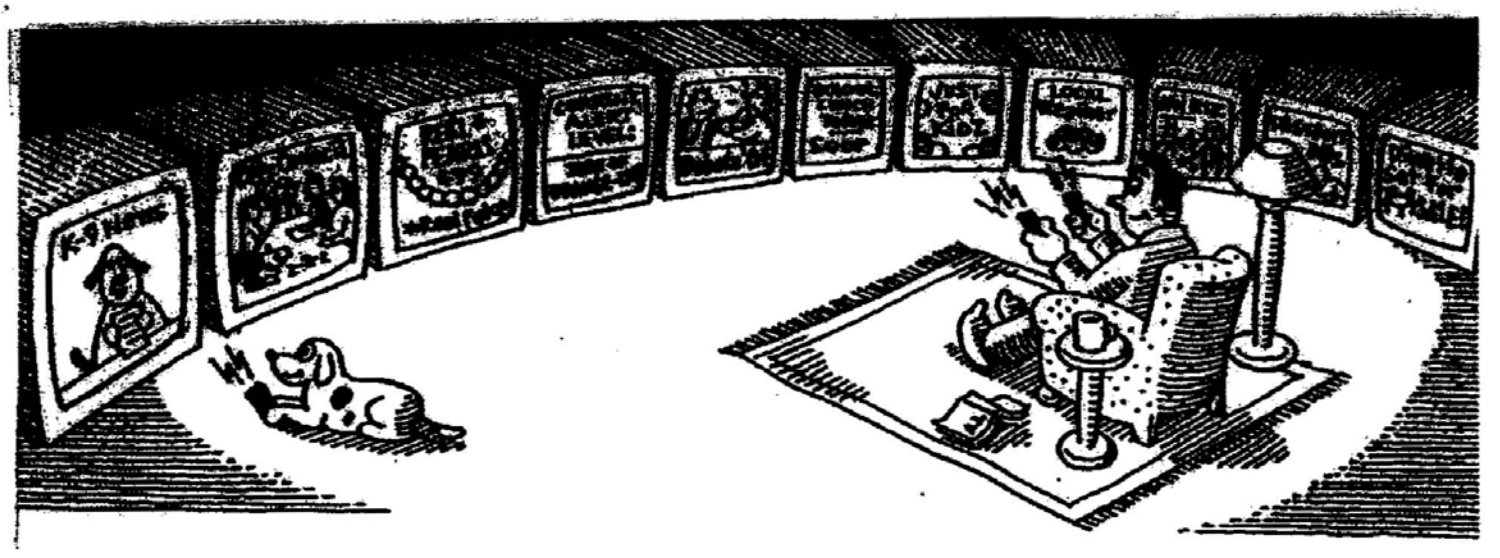
TV columnist Dave Walker can be reached at dwalker@timespicayune.com or at (504) 826-3429.

EXHIBIT C



TV ON STEROIDS

So Long to Analog Broadcasting and Hello to Digital, Which May Spell Good News for Viewers – and Plenty of It

BY NEIL HICKEY

Since the dawn of television, almost six decades ago, every TV station in America has had the capacity to beam out just one program at a time — *Gunsmoke* or The *Huntley-Brinkley Report* or *Survivor* or *60 Minutes*. That was then; welcome to now: the Digital Era of broadcasting. The so-called analog, one-channel version of television will soon be as archaic as a 1950 Studebaker. Since the passage in 1996 of a new Telecommunications Act, all of the country's television stations are allowed to reach their viewers on as many as six channels — simultaneously! Benefits for the public have been slow in coming, but suddenly "multicasting" — that's the hot new word — is on the lips of everybody in TV land.

Take WRAL in Raleigh, North Carolina, for example, a pioneer in the new age of broadcasting. Last year, on one of its new digital outlets, a service called NewsChannel, the station aired live, full coverage of the murder trial of a well-known local figure accused, and eventually convicted, of killing his wife. It was a story of broad local interest, but one for which the station would not have preempted popular CBS shows on its lone analog channel.

Other examples:

• In Fresno, California, station KFSN has been multicasting for a year and a half, using one of its channels for news, public-affairs shows, and political debates. During the California recall election, it employed the channel for continuous, real-time election results. ABC, which owns KFSN, plans to create similar channels in the nine other cities where it owns stations.

• When CBS canceled coverage of important NCAA basketball games in April 2003 to report the Iraq war, WKMG in Orlando, Florida, shifted the games to one of its multicast channels for fans who needed their basketball "fix."

• At its stations in Indianapolis and Fort Wayne, Indiana, LIN Television Corp. (it owns twenty-six other TV outlets) is airing a local, twenty-four-hour weather channel. For the last four years, during the NCAA's March Madness tournament, those stations have aired four games simultaneously on their multicast channels.

• *The New York Times*, which owns eight TV stations, has told the Federal Communications Commission that it wants to forge "super local" news channels to beam zoned coverage at small, discrete geographic areas within its stations' signal areas; and to sell advertising to small businesses that currently can't afford commercials on the main channels.

• PBS, with its 349 affiliates, is a major player in digital multicasting, sending informational and educational programs 24/7 on multiple channels simultaneously. One of its station groups, South Carolina Educational Television Network, offers gavel-to-gavel reporting on the South Carolina General Assembly. A cluster of public stations in Idaho, Nevada, Utah, and Wyoming operate a mini-network delivering news of interest to westerners. In January the Knight Foundation gave PBS $200,000 to help set up a new digital channel for news and public affairs. Hodding Carter III, president of the foundation, said he expected that PBS would produce "sustained electronic journalism serving the public interest" at a time when "sleaze repeatedly trumps substance" in much of broadcast news.

A new and potentially promising day has dawned. This tectonic shift will profoundly transform the TV news service we've known, and sometimes loved, since the 1940s. Besides local twenty-four-hour all-news and all-weather channels, stations will be able to devise local versions of C-SPAN covering state legislatures and city councils, public hearings, community board meetings, court trials, school board sessions, school lunch menus, school closings, public event schedules, updates on terror alert levels, and disaster warnings, along with documentaries on issues of local concern, free airtime for office-seekers, children's news and educational shows, and almost anything else station owners can dream up — with simultaneous

translation into other languages for the benefit of local non-English-speaking minorities. Then there's the datacasting of text: stock market quotes, sports statistics, classified advertising, radio and TV program schedules, and even electronic newspapers. Not all multicasting will be public-spirited: stations also will be squeezing as much profit as possible from those new channels by selling advertising on some of them, and by airing infomercials, home shopping, pay-per-view movies, and local versions of HBO that viewers will have to pay for.

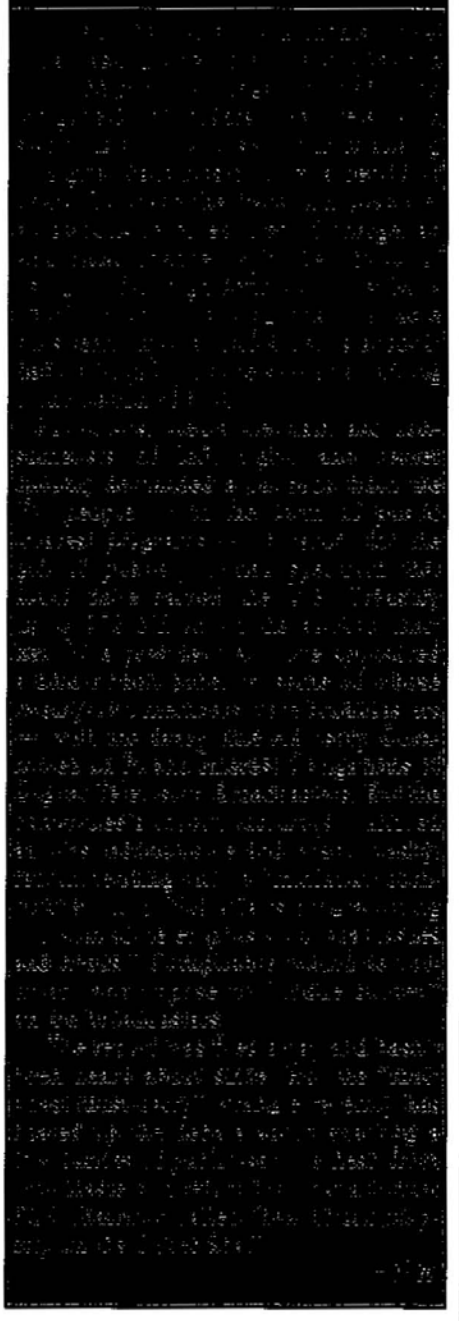
But local news and public affairs could be big winners. "The inherent characteristics of the digital broadcasting system will change broadcast news forever," the Radio and Television News Directors Foundation decided in a 1998 study.

Raleigh's WRAL was the first station in the U.S. to go fully digital. John Greene, its vice president for special projects, says that multicasting gives his station "greater versatility and flexibility, and an opportunity to do much more localism." WRAL's twenty-four-hour NewsChannel went on the air August 1, 2001, and since then has aired numerous election specials; live coverage of controversial hearings on the FCC's media ownership rules; live broadcasts during the Iraq war of United Nations Security Council meetings and related White House and Pentagon news conferences; hearings of the North Carolina supreme court; opening ceremonies of the North Carolina state fair; and scores of other stories of particular interest to local viewers.

John Tupper, past chairman of the Fox board of affiliates and owner of KNDX in Bismarck, North Dakota, says that "the sky's the limit" in thinking up ways to better serve local audiences with digital technology. John Lawson, president of the Association of Public Television Stations, calls multicasting "public television's second chance." Public stations typically haven't attracted large audiences on a regular basis, he points out, "but digital allows us to fulfill the promise that the founders of public television had back in the 1950s, namely to provide a wide range of services to people who may be underserved."

Despite such optimism, it's still 5 a.m. in the Digital Era. Among most broadcasters, promise exceeds performance so far. About 1,200 of the country's 1,600 television stations have made the expensive transition to the digital mode. Roughly 215 stations currently are multicasting, according to Decisionmark Corporation, an Iowa-based media technology company. More than 130 are offering news on those collateral channels. High-definition (HDTV) television sets — those equipped to receive the new channels — so far have reached only about five million of the nation's 106 million households, but sales are zooming. The public will buy almost six million digital sets in 2004, says the Consumer Electronics Association, 8.3 million in 2005, 11.9 million in 2006, and 16.2 million in 2007. Many consumers who still own good old-fashioned, soon-to-be-obsolete, analog sets (which a few manufacturers already have stopped making) have bought cheap (under $100) converter boxes that let them view the multicast channels.

HOW WE GOT DIGITAL: A Quick History



Meanwhile, all the bright promise of multicasting's future could come to a crashing halt, depending on who wins a battle of the behemoths between broadcasters and cablecasters. Those two powerful industries are throwing elbows at each other over how all these new channels will reach the public. Broadcasters want the FCC to force cable operators to carry *all* the new multicast channels, instead of just the one-per-station they've been retransmitting for decades. That debate bears the unwieldy moniker "multicast must-carry" and both camps are calling it a matter of life and death for their future good health. (Despite its importance, hardly a soul among the public is aware of the controversy; mainstream media have typically ignored it as being too arcane for normal human beings.)

The antagonists: in this corner, the National Association of Broadcasters, often called Washington's most powerful lobby. It wants the FCC to decree that local cable companies be obliged to carry most of the broadcasters' multicast channels (not the infomercials or pay-per-view streams) because otherwise viewers will have to revert to old-style antennas and the promise of multicasting will never be realized.

"We think, as an industry, that there will be an absolute explosion in all types of programming, including public-interest programming, if digital must-carry is adopted by the FCC," Dennis Wharton, an NAB vice president told cjr. "The possibilities are huge. I don't think there's any question that many broadcasters will be willing to use their multicast spectrum for political debates, city council meetings, mayoral elections." As for the pending FCC ruling: "If the FCC is truly interested in the public interest, broadcasters will win this one on the merits."

And in the other corner: the National Cable Television Association, another powerhouse Washington lobby. It believes that the government shouldn't go around telling a major media industry what it can and cannot put on its wires

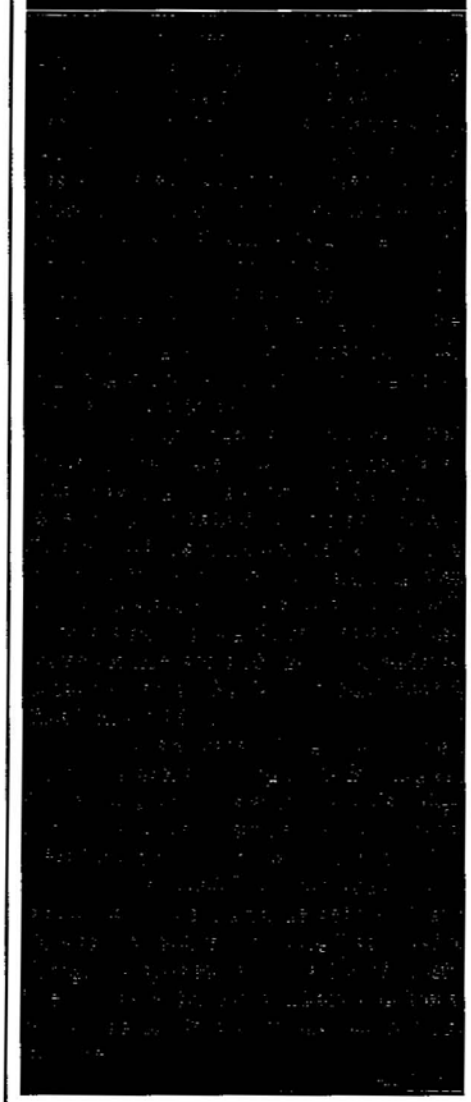
into the 70 percent of U.S. homes that pay for cable service. That offends their First Amendment rights, say the cablers. "We favor making these decisions based on marketplace forces, and letting the negotiations happen at a business-to-business level," says Brian Dietz, a cable association spokesman. (Cable already carries more than 300 multicast channels nationwide, the result of friendly deals between stations and local cable companies. WRAL in Raleigh is an example.) An FCC mandate would give broadcasters "a free ride on cable," Dietz says, and they might use the new channels for a lot of programs that cable subscribers don't want to see. There are now more than 300 cable networks, he points out. Adding scores of others in every market would only confuse and irritate cable viewers, and might prevent the birth of worthy new cablenets in the future.

All this, as usual, is less about principle than about money; it's an aspect of the love-hate synergy that has marked the two industries' relationship for more than thirty years. TV station owners see a potential pot of gold in advertising (and other) revenue from the digital channels, but know they'll never attain it without cable's cooperation — either voluntary or forced. Cable folk perceive the birth of a monster competitor that's dangling all the right carrots now, but which may also fabricate free, over-the-air, advertiser-supported streams of movies and ancient sitcoms and old game shows to compete with cable's movies and ancient sitcoms and old game shows.

And so the game is afoot, with the FCC expected to rule in the next few months. The volume of public-service multicasting now available to viewers is a mere drop in the digital bucket compared to what the broadcasters have sworn they'll create — not hundreds of multicast channels, but many thousands nationwide — if only the FCC will vote their way. In filings to the commission in January, networks and their affiliates pounded home their case. "These opportunities for additional services cannot succeed," says the NBC affiliates' bulky brief, unless cable passes them along to their subscribers. Without that, broadcasters will "withhold or withdraw" the necessary investment because cable operators "occupy a bottleneck position" and can "snuff out" the bright promise of multicasting.

Until late last year, the smart money was betting that the broadcast people would emerge victorious. And that's still the safest bet. But a third pu-

FOX'S DIGITAL GRAB



gilist has now entered the ring: a coalition of consumer activists — many of the same people who fought the FCC to a standstill last year on the rowdy media ownership dust-up (see "Tripping up Big Media," CJR, November/December 2003). Their plea: Don't give broadcasters automatic access to cable — worth billions of dollars to them — without a payback to the public, a quid pro quo that they'll deliver "verifiable and quantifiable" amounts of public-interest programming in return.

The activists fear that broadcasters will promise anything to gain access to those crucial cable homes, and having got it, will conveniently forget about their pledges. "They promise a lot but they have a terrible record of keeping promises," says Jeffrey Chester, executive director of the Center for Digital Democracy. "But on this issue they'll have to blink and swallow some castor oil to get what they want." He's against handing the broadcasters the key to a "digital Fort Knox" free of charge. So is J.H. Snider, a senior research fellow at the New America Foundation Spectrum Policy Program, who favors either new and verifiable public-interest obligations, or a 5 percent spectrum fee on broadcasters' gross revenue, with the money going to the funding of public-interest programs and to help low-income people buy converter boxes. Meredith McGehee, president of the Alliance for Better Campaigns, says she sees this debate as a chance "to engage the question: Are we going to have meaningful public-interest obligations or not. That's the heart of it — citizens being able to get from television the information they need to be informed and engaged voters."

A similar view comes from the Consumer Federation of America, whose report on the squabble says that the shift to digital broadcasting, which is mandated by the government, "represents a major change in the commercial nature of the industry that requires aggressive policy to promote the public interest"; and that obligations should be imposed on the people who stand to benefit the most, namely broadcasters.

Unsurprisingly, broadcast people hate the notion of the government's telling them what to put on their multicast channels. Would they accept any mandated obligations at *all* in return for multicast must-carry? "That's a good question and one we're struggling with right now," said a senior broadcast official who requested anonymity. "There are serious First Amendment implications if the FCC specifically writes into the rules types and percentages of programming that we have to create." He noted that, ironically, local cable companies also will wrap themselves in the First Amendment if the commission tries to force them to carry the new channels on their wires.

Meanwhile, on stations like Raleigh's WRAL, the public is getting the merest taste of what the Digital Era holds for them. The U.S. government, as usual, can either be part of the problem or part of the solution in getting the best deal for the people.

Neil Hickey is CJR's *editor at large.*

PLEASE VOTE ***FOR*** MULTICAST MUST CARRY ON JUNE 15TH, 2006!

WHY?

Today, WYMT-TV is totally reliant upon cable operators to carry our signal to the eastern Kentucky viewers. Due to topography, less than 5% can receive WYMT's signal out of the air. Without multicast must carry rights, our program streams may not go any further than the 5% mentioned above.

We know our viewer-success hinges on providing programming that is important, entertaining and relevant. If it is NOT, we will not stay in business very long, as our viewers (numbers) represent our success (advertising revenue). Therefore, we make decisions based on viewer-benefit. We are currently looking into a 24 / 7 weather channel (with local focus) and the new CW network (with local focus also). The possibilities are great, as we're courted daily by the new up-cropping of non-traditional networks and program providers.

But, all the planning and local relevance in the world will mean nothing unless we have must carry rights for multi-casting. During this last round of retransmission consent, many cable operators balked at the idea of adding any additional channels – they say they cannot afford to upgrade their systems to accommodate everyone. Surely, cable operators will also stand to benefit by staying competitive and offering more and more channels in order to compete with satellite,… especially if those offerings have a local focus.

In 1985, when WYMT first went on the air, must carry rights were of utmost importance to this rural, isolated television station. If we hadn't offered programming of local interest, and if we hadn't enforced our must carry rights within the cable industry here, we would have failed miserably AND, I am not ashamed to say, eastern Kentucky would have been the poorer for it. As an example of WYMT's localism, we have been awarded the Golden Tower Award by our state broadcaster's association, meaning our public service efforts beat out all other Kentucky Television stations.

PLEASE HELP BROADCASTERS CONTINUE THE TRADITION OF ***SERVICE THROUGH LOCALISM*** TO OUR VIEWERSHIP.

VOTE ***FOR*** MULTICAST MUST CARRY ON JUNE 15TH.

Respectfully Submitted,

Ernestine Cornett
General Manager

WYMT-TV, a CBS Affiliate serving Eastern and Southeastern Kentucky
P.O. Box 1299
Hazard, KY 41702
ernestine.cornett@wymtnews.com

To The Federal Communications Commission:
While you are considering multicast must-carry for broadcasters,
I would like to offer my thoughts on this vital ruling if digital
television is to succeed. I have been working in television
broadcasting for over 45 years and have watched television grow
into a medium that we all should be proud of. We are now at the
cross roads for the latest technology, but there is some rulings that the Commission need to do in order for digital to become what
it can be. Broadcasters have invested millions of dollars in
order to fulfill the mandate give to us by Congress. We are now
bring full HDTV to our communities in Western South Dakota, Eastern Wyoming and the Panhandle of Nebraska, and it is our plans to expand into the available channels available to us in digital television in the immediate future, first with a full time news,
weather channel bring the latest in local and regional information along with EAS announcements. Additional channels would be used for localism interests such as schools, government and public service organizations. As I was working with the various cable systems in the Retransmission Consent and Must Carry permission, not one of the several dozen companies would agree to carry any of the additional digital channels. Cable penetration in our area ranges from 28 to 95%. In order for us to succeed in being able to offer these additional channels it is necessary for us to have viewers watching so that we sell advertisements to national and local businesses. So if we do not have the additional digital channels on the cable systems, we would not be able to sell advertisements at the same level as we could with "Must Carry". In a large geographical area such as the one that we serve with our four (4) full power, 24/7 stations it is very important that all information that we telecast be available to any and all potential viewers.
I have spoken to Commissioner Adelstein about this concern of ours, while he visited the South Dakota Broadcasters convention last summer, while he did not say what he intention would be, I hope that he will join in with all of the Commissioners and vote "Yes" for Must Carry.
I urge you to support must carry not only for the well being of the broadcast industry, but for the millions of people who would benefit not only from the information that they could view, but also for the new avenues that many local organization would benefit from by being able to present their views.
Thank you.
Monte Loos

Fisher Communications, Inc.
100 4th Avenue North, Suite 510
Seattle, WA 98109
Tel: (206) 404-6783
Fax: (206) 404-6787
www.fsci.com

Colleen B. Brown
President & CEO
cbrown@fsci.com

June 5, 2006

FILED ELECTRONICALLY

Kevin Martin, Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: February 23, 2005 Order

Dear Chairman Martin,

Fisher Communications, Inc. ("Fisher") strongly supports your decision to reconsider the Commission's February 23, 2005 order that had denied multicast carriage of digital television stations on cable systems. Fisher owns 10 televisions, with ABC affiliates in Seattle and Portland, and CBS stations regionally, and we depend upon cable and satellite providers to transmit to the vast majority of our viewers.

Currently, Fisher, like other broadcasters, is engaged in the exciting transition to digital television. For the public to fully benefit from this transition, cable operators should be prevented from refusing to carry all of a broadcaster's digital signals. Fisher intends to utilize fully all of its digital spectrum to produce local programming, or targeted content of great local interest in Fisher's markets in the very near future.

Currently, the large cable providers either refuse to carry all of our digital programming or they effectively condition carriage on terms that regulate our content. This is antithetical to the policy behind requiring retransmission consent in the 1992 Cable Act, Pub. L. No. 102-385 (1992), which is to best serve the public interest through a system that mandates full broadcast carriage.

Accordingly, Fisher urges the Commission to rule that cable providers be required to carry multicast digital television stations on their cable systems.

Best regards,

Colleen B. Brown

Stopping the stripping of digital programming from broadcast stations' digital signals by cable operators is very important to consumers and broadcasters. KTVN has carried a 24/7 local weather program stream since its digital sign on date of 2/5/03. It is now carried on part of Charter's system as a digital tier channel. Adelphia Susanville, CA is carrrying our HD signal but not our weather multicast. KTVN has the capacity to carry one more multicast service in addition to its main HD signal and its weather channel but is on hold at this time until carriage issues are resolved.

If the programming is offered free to viewers it should not be stripped by cable operators in an effort by them to reduce competitive pressure generated by more channel offerings in the marketplace.

Thank you,
Lawson Fox
General Manager
KTVN
Reno, NV

June 7, 2006

Comments of Journal Broadcast Group, Inc.
In Re: Proceeding 98-120

Journal Broadcast Group, Inc., headquartered in Milwaukee, Wisconsin, owns and operates nine television stations in 7 states and programs two additional television stations under local marketing agreements.

Journal intends to make use of its digital multicast capabilities to serve its communities of license with additional channels of local news, information, and entertainment. Earlier this year, Journal's WTMJ-TV in Milwaukee launched an all-new 24-hour local weather service on channel 4.2. This service is available to viewers over the air; via video streaming on the WTMJ-TV website; and on Time Warner Cable as part of its basic digital tier. Within the next few weeks, Journal's KTNV-TV in Las Vegas, Nevada plans to launch a similar all-new, all-local information service focused on traffic information and weather in that metropolitan area. Thanks to the willing partnership of local cable franchisees in both Las Vegas and Milwaukee who made channel allocations available to Journal as part of our retransmission consent negotiations, tens of thousands of viewing households will have easy access to these important new local services offered by Journal.

However, Journal has been disappointed to find that not all local cable franchisees are willing to cooperate in delivering such new services to their communities, even when Journal has offered to negotiate in good faith for a channel allocation. For example, in Tucson, Arizona, Journal's KGUN-TV has been flatly rejected by one major cable MSO in its efforts to negotiate a cable channel allocation for new local service. Curiously, this MSO is one with which Journal has successfully negotiated such an allocation in another community. We have been unable to determine any reason for the MSO's intransigence in Tucson, other than the apparent personal preferences of the local market manager at the cable system.

For this reason, Journal believes it is essential for the FCC to require digital multicast must carry. Local broadcasters have invested billions of dollars in capital to build out terrestrial digital broadcast capabilities. Many, like Journal, have committed to invest even more in order to provide important new local service to our communities of license, thanks to the opportunities created by digital multicasting. However, in some communities these new services will never see the light of day unless cable operators are required to carry all local services to their subscribers.

June 5, 2006
FCC Comments
98-120
Multicast – Must-carry

My name is Mike Taylor and I am the Vice President and Business Manager for Drewry Broadcasting representing licensee KSWO Television Co. Inc. and KSWO-TV/DT, Lawton, Oklahoma. This attachment concerns 98-120 and the multicast must-carry vote scheduled for June 15, 2006.

KSWO-TV/DT is currently broadcasting two additional digital broadcast channels. 11.2 is a Telemundo affiliation, providing Spanish language programming as well as local news and weather information to our viewing audience. It is our hope that as we expand our cable penetration, we will be able to provide at least one, perhaps more, thirty minute local newscasts per day, in Spanish. In addition, we have provided Spanish language broadcasts of Dallas Cowboys Preseason Football, as well as season-long special programs on the Cowboys. These Spanish language broadcasts are very popular with our Hispanic viewers.

11.3 is a local channel, providing weather, news, and special programming concerning the community we serve. For example, we air a program called "Working for You" featuring the Director of Economic Development of the Lawton, Oklahoma Chamber of Commerce. This program is designed to provide information on the local efforts to promote economic development in our viewing area. We also carry prime-time airings of local high school and college sports programs including Oklahoma University, The University of Texas, and Oklahoma State University. In addition KSWO-TV/DT is evaluating the purchase of additional weather equipment which will allow us to provide continuing weather information on this channel while airing the local programs our viewers are interested in at the same time. The long range plan for KSWO-DT 11.3 is a strictly local channel, designed to serve the viewers of the Wichita Falls, Texas – Lawton, Oklahoma DMA, 24 hours a day with local information of importance to the viewers of our area.

KSWO-TV/DT has had limited success in our cable carriage efforts for both 11.2 and 11.3. Objections from cable operators are wide ranging and vary from operation to operation. Some of the smaller operations complain that they do not have the analog channel space and do not have a digital tier available to subscribers. The larger operations are reluctant to down-convert a digital signal to their analog tier and the number of digital subscribers is much smaller than their basic or expanded basic analog subscribers. However, in those locations where we have been successful in getting a cable channel for 11.2 and 11.3, we have had good response from viewers about the service they provide.

In conclusion, it is our hope that the FCC will reconsider its initial vote on the Multicast Must-Carry issue, and vote for it. We believe our local viewers are worth the commitment. What we need is the opportunity to reach them. Multicast must-carry will help make this possible.

To the Commission: In your consideration of Multicast Must Carry rules, please accept these comments about how our TV station is being treated by one local cable system.

In recent negotiations with this cable system, the system has arbitrarily said they would only carry two of our station's digital streams: our main channel and one other. In addition, the cable system has stated that it should have approval rights over what type of programming we put on any of our digital channels.

This seems irrational, considering our digital stream will take no more bandwidth that our current analog signal. It sounds as if the cable system simply wants to control what programming our station is capable of providing.

The restrictive actions of this cable system are probably being duplicated across the country, since there are no current rules to prohibit these actions.

I strongly urge the Commission to prohibit cable systems from taking this type of discriminatory action against local television stations.

David Madsen
Station Manager
KTIV-TV
Sioux City, Iowa

I would like to express my strong desire for the FCC to require digital multicast must carry. Our station is broadcasting Telemundo on digital channel 26-2 and a 24/7 local weather channel on 26-3, in addition to ABC-HD on 26-1. Some cable companies have agreed to carry Telemundo and 25 Weather Now, but many have refused to carry these two channels. Both Echostar and Direct TV have local to local service in the Waco market, but only Echostar has agreed to carry Telemundo. It is my strong belief that in order for the digial transition to be successful, all multicast channels must be given must carry status.

Mike Lee
Vice President/General Manager
KXXV-TV/DT, Waco, TX

4600 Vestal Parkway E.
Vestal, NY 13850
(607)-770-4040
(607)-798-7959

June 5, 2006

I understand you will be ruling on multicast must carry rights in the new future. As a General Manager of 15 years I am a veteran of many Cable negotiations. It took two years to secure a channel position for our Binghamton UPN affiliate on Time Warner. This was a station which at the time carried local News and sports as well as a full programming schedule. WBPN now carries the Binghamton Senators Hockey, New York Yankees Baseball, High School Football and Basketball shows. In 2005 we provided viewers with debates for the Binghamton Mayoral debates. (More are planned in 2006).

I urge you to support the carriage of all broadcast's digital channels. Full must carry is the only way to insure this broadcast localism.

John Leet

June 7, 2006
FCC Comments
98-120
Multicast – Must-carry

My name is Mac Douglas and I am the Vice President and General Manager for Midessa Broadcasting, LP (KWES-TV/DT), Odessa/Midland, Texas. This attachment concerns 98-120 and the multicast must-carry vote scheduled for June 15, 2006. KWES-TV/DT is currently broadcasting one additional digital broadcast channel. 11.2 is a Telemundo affiliation, providing Spanish language programming as well as eleven thirty minute local newscasts per week, in Spanish, to our viewing audience. In addition, we provide information on pertinent issues to our Spanish speaking audience such as housing, education, crime, immigration, health and other issues of importance. We also air Spanish language broadcasts of Dallas Cowboys Preseason Football, which are very popular with our Hispanic viewers.

Within the next few weeks, 11.3 will begin broadcasting the bilingual LATV network, which will provide music entertainment for both Spanish and English speaking viewers. It is our hope that as we expand our cable penetration, we will be able to provide at least severe weather and breaking news alerts and at some point full newscasts in Spanish.

Technology is now advancing to the point of being able to broadcast at least one additional channel within the digital spectrum. We are considering the addition of a 24/7 local weather and news channel that would allow us the opportunity to provide expanded local breaking news and severe weather coverage as well as other programming of local community interest.

KWES-TV/DT has had limited success in our cable carriage efforts for both 11.2 and 11.3. Objections from cable operators are wide ranging and vary from operation to operation. Some of the smaller operations complain that they do not have the analog channel space and do not have a digital tier available to subscribers. The larger operations are reluctant to down-convert a digital signal to their analog tier and the number of digital subscribers is much smaller than their basic or expanded basic analog subscribers. However, in those locations where we have been successful in getting a cable channel for 11.2 and 11.3, we have had good response from viewers about the service they provide.

In conclusion, it is our hope that the FCC will reconsider its initial vote on the Multicast Must-Carry issue, and vote for it. We believe our local viewers are worth the commitment. What we need is the opportunity to reach them. Multicast must-carry will help make this possible.