



**NATIONAL
CABLE TELEVISION
COOPERATIVE, INC.**

*Jeffrey L. Abbas
President and
Chief Executive Officer*

August 7, 2006

VIA HAND DELIVERY

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C. 20554

Re: MB Docket No.03-124

Dear Chairman Martin:

On July 25, 2006, I wrote to you on behalf of the National Cable Television Cooperative ("NCTC") to seek the Commission's assistance in resolving the impasse that is effectively preventing smaller cable operators from exercising the right granted them by the Commission's "News-Hughes" order to utilize a bargaining agent to negotiate for Fox-affiliated RSN carriage agreements. By letter dated July 27, 2006, Lindsay Gardner, President, Affiliate Sales and Marketing for Fox Cable Networks, responded to my letter. While I am pleased to note that Mr. Gardner has expressed News Corp.'s willingness to allow those cable operators that appoint NCTC as their bargaining agent share with NCTC the "information that it reasonably needs" in order to effectively negotiate on their behalf, I feel compelled to respond in order to set the record straight as to certain other comments contained in Mr. Gardner's letter.

First, NCTC will, of course, share with News Corp. the names of the companies that appoint it to negotiate on their behalf. However, Mr. Gardner's hyperbolic contention that NCTC is demanding that News Corp. "immediately divulge its most commercially sensitive confidential information to every party claiming to represent (or seeking to represent) small cable operators" is completely without merit. NCTC has not asked News Corp. to divulge any information directly to NCTC. Rather, NCTC merely has been seeking confirmation that News Corp. will not object or otherwise take adverse action against those companies that duly appoint NCTC as their agent if those companies thereafter share with NCTC (subject to appropriate safeguards) information regarding the terms and conditions of their existing and expired RSN-related agreements with Fox for the limited purpose of facilitating NCTC's efforts at negotiating new or renewal Fox-affiliated RSN carriage agreements on their behalf.

Resolving this issue in advance of the actual appointment of NCTC as a bargaining agent by these companies is absolutely essential so that the companies may make an informed decision as to whether NCTC will be able to represent them effectively in negotiating with Fox and, if necessary, in any arbitration that might follow. As the Commission is well-aware, under the “baseball-style” arbitration process established by the *News-Hughes* order, each side is required to submit a single offer and the arbitrator is required to select the offer that most closely approximates market-based terms and conditions. It would be irrational for smaller cable operators to place their fate in the hands of a bargaining agent if that bargaining agent was required to negotiate – and formulate an arbitration offer – while completely in the dark regarding the terms and conditions that these companies had previously negotiated, while News Corp., of course, has knowledge not only of those agreements, but of all of its other carriage agreements.

Second, NCTC acknowledges News Corp.’s interest in not becoming “embroiled” in a violation of antitrust law. However, the business review letter cited by Mr. Gardner does not define or otherwise delineate the only permissible arrangements between a bargaining agent and its members. The fact that News Corp. did not raise any antitrust concerns when it accepted the bargaining agent condition imposed by the Commission in the *News-Hughes* order suggests that News Corp. is using its unexplained and unspecified antitrust concerns as a convenient excuse to delay and avoid the fulfillment of its obligations under that condition.

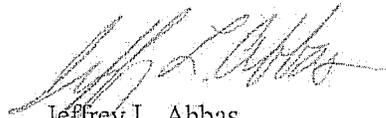
Notwithstanding our disagreement with Mr. Gardner’s position on the matters described above (as well as with his attempts to shift responsibility to NCTC for the delay in initiating carriage negotiations), NCTC reiterates its appreciation for Mr. Gardner’s acknowledgement that Fox intends for NCTC to have access to the information it “reasonably needs” to represent the companies that duly it appoint it to negotiate with Fox. As explained in my July 25 letter, as well as in NCTC’s March 31, 2005 letter to Fox Cable Networks and in NCTC’s meeting with the Media Bureau in August 2005 (both referenced in attachments to Mr. Gardner’s letter), the information that NCTC “reasonably needs” in order to adequately represent its members unequivocally includes the terms and conditions of the RSN-related affiliation agreements currently (or previously) entered into by its members and Fox. To the extent News Corp. believes otherwise, the burden is on it to explain why it would be unreasonable for NCTC to be given access to such information, particularly where there are protections put in place to ensure that the information is used only for limited purposes and is not disclosed to any of NCTC’s members or to third parties other than NCTC’s attorneys.

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Finally, NCTC notes that Mr. Gardner's letter did not indicate any objection to NCTC's request for clarification that a cable operator who appoints a bargaining agent to negotiate on its behalf may continue to carry a Fox-affiliated RSN during the negotiation period and any arbitration, notwithstanding the expiration of that operator's current carriage agreement with the RSN. NCTC interprets News Corp.'s silence on this matter as an indication of their agreement with this interpretation.

Should you have any questions regarding this matter, I would be most willing to meet with you or your staff.

Respectfully submitted,



Jeffrey L. Abbas
President and Chief Executive Officer
NCTC

cc: Heather Dixon
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