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March 21, 2007

By Hand Delivery

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MAR 21 2007
Federal Communications Commission
Office of the Secretary

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: ***Ex Parte* Letter**
Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming
MB Docket No. 06-189

Dear Ms. Dortch:

Sinclair Broadcast Group, Inc. ("Sinclair") hereby submits this *ex parte* letter to respond to the false and misleading arguments made by the Coalition for Retransmission Consent Reform ("Coalition") regarding broadcasters' statutory right to obtain payments for the retransmission consent of their broadcast signals.[1] In its letter, the Coalition alleges that broadcasters are shielded from market forces (*id.* at 10) and, therefore, are able to "leverage" their popular broadcast programming and make "unreasonable cash demands" on cable operators to the detriment of consumers.[2] The Coalition's contentions, however, are logically unsound and, more importantly, have proven to be untrue in Sinclair's experience. For these reasons, Sinclair submits that there is no basis for the Commission to regulate retransmission consent fees, as the Coalition requests.

The Coalition's argument that broadcasters are shielded from market forces is absurd. Broadcasters generate revenues primarily through the sale of local

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[1] *See* Letter to Marlene Dortch from Bruce Sokler, Counsel for the Coalition for Retransmission Consent Reform ("Coalition Letter") (February 16, 2007).

[2] Coalition Letter, at 1 ("Big Four broadcast networks and other large broadcast conglomerates leverage retransmission consent in a manner that increases . . . the price . . . of popular cable service tiers"); at 2 ("[C]ash fees that broadcaster are seeking to extract from cable providers through actual or threatened withdrawals of network signals will, of course, be borne by subscribers to cable's entry-level Basic tier of service.").

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advertisements, which are correlated directly with a station's ratings and audience reach. A broadcaster that enters into retransmission negotiations seeking higher than market rates runs the risk of jeopardizing the distribution of its broadcast signal and indirectly its advertising revenues. Accordingly, there is no basis for the Coalition's contention that broadcasters are shielded from market forces in their negotiations with cable operators.

Sinclair's own experience confirms there is no merit to the Coalition's speculative argument that retransmission consent fees will lead to higher cable rates for consumers. For example, days before Mediacom and Sinclair reached a retransmission agreement regarding 22 stations to be carried on Mediacom systems in 13 states, Mediacom announced a rate raise of 1.5% for the average customer. By all public accounts, that rate increase had nothing to do with the retransmission consent agreement between Mediacom and Sinclair.[3] Indeed, in a letter to local Iowa officials, Mediacom stated that it was increasing rates of digital-cable, high-speed Internet service, and premium channels such as HBO and Showtime, but the charge for the basic tier cable service would not change.[4] Recently, Mediacom announced another rate hike, this time conveniently blaming in part the retransmission agreement with Sinclair.[5] In Des Moines and Cedar Rapids, for example, the cost of basic cable will increase by $3 and $7, respectively. Despite Mediacom's apparent attempts to convince their subscribers to the contrary, the fees Mediacom is paying Sinclair as part of their retransmission consent agreement represent only a very small percentage of the increases Mediacom announced.

As another example, in Charleston, West Virginia, Sinclair negotiated a retransmission consent agreement with Suddenlink Communications. Suddenlink subsequently announced rate increases for basic and other tiers but also publicly stated that "[n]one of the new costs stem from Suddenlink's recent retransmission agreement with Sinclair Broadcast Group, Inc."[6] Rather, Suddenlink attributed the cost increase to completely unrelated factors – namely, wage and fuel inflation, increased costs of

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acquiring sports programming, such as ESPN, and an $8.1 million service upgrade project.[7] These examples show that the allegation that retransmission consent fees will lead to higher cable rates for consumers is unsupported and speculative.

The irony of the Coalition's filing is that local cable operators, not broadcasters, have wielded monopoly power for decades and historically have been able to dictate the terms of retransmission consent agreements. In fact, although the Coalition now complains that "[r]etransmission consent . . . has significantly reduced the opportunities for cable networks not affiliated with a broadcaster to obtain carriage on cable's expanded basic tier," it was cable operators that originally encouraged network broadcasters to develop cable networks, for which cable operators would pay a premium in lieu of direct payments to networks broadcasters for the retransmission of network programming.[8] Through such arrangements, cable operators used their monopoly position to mask the fact that they were paying retransmission consent fees and avoid having to pay non-network broadcasters, like Sinclair, for the retransmission of network programming.

But now the situation has changed as a result of the rise in the number of competitors to local cable monopolists, and cable operators should acknowledge that the charade is over. These competitors' willingness to negotiate and pay for the retransmission of broadcast signals readily demonstrates that such programming has value and that market forces, not monopoly power, determine the fees for retransmission consent authority. Indeed, the retransmission fees that Sinclair has negotiated for its broadcast stations are below, and in some cases substantially below, the fees that cable operators typically pay for other video programming services, which are far less popular.[9] Moreover, the competition for subscribers ensures that cable subscribers are not likely to see rate increases as a result of retransmission consent agreements.[10] In short, the net

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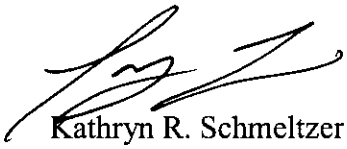
impact of this competitive development is the erosion of monopoly power held by cable operators, not the exercise of such power by broadcasters, as the Coalition implies. For these reasons, Sinclair submits there is no basis for Commission regulation of retransmission consent fees.

Respectfully submitted,



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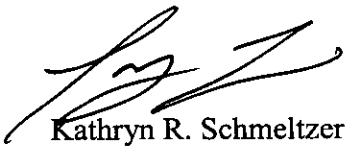

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