



May 27, 2010

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

Re: Notice of Ex Parte Communication, MB Docket No. 10-71

Dear Ms. Dortch:

Yesterday, Jane E. Mago, Executive Vice President and General Counsel of the National Association of Broadcasters (NAB) and the undersigned met with Commissioner Mignon Clyburn and her Legal Advisor, Rick Kaplan.

During the meeting, we discussed points raised by NAB in previous ex parte communications and in the joint filing of NAB and the ABC Television Affiliates Association, the CBS Television Network Affiliates Association, the FBC Television Affiliates Association, and the NBC Television Affiliates (the "Broadcaster Associations") in this proceeding.

We explained that the record in this proceeding overwhelmingly demonstrates that because the retransmission consent system is functioning effectively, there is no need for the so-called "reforms" sought by multichannel video programming distributors ("MVPDs"). Specifically, the record demonstrates that:

- The retransmission consent process has, for years, effectively supplied broadcast programming to MVPD subscribers and enhances the quantity, diversity, and quality of available programming for all viewers.
- Interruptions in access to broadcast programming via MVPD service are infinitesimally rare—and broadcasters' signals always remain available to the public over-the-air.
- The ever-increasing cost of subscribing to MVPD service does not stem from retransmission consent compensation.

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- MVPDs' proposed changes would tilt the market-based retransmission system in their favor, harming competition and local stations' service to their communities.

We also discussed the fact that, even if there were any public interest rationale for changing the retransmission consent regime, MVPD proposals in this proceeding would be contrary to law. After a full round of initial comment, the record still does not contain a legal basis for proposed changes to the current system.

Finally, we discussed the importance of maintaining a consumer-oriented focus when evaluating proposals on the record. As the Broadcaster Associations noted in our comments, MVPDs can address the potential for consumer confusion by fully complying with their existing obligations to give notice to subscribers of any removal of a broadcast station from carriage.¹ Increased consumer notice and education would allow viewers who may be affected a rare impasse in negotiations to make informed choices about watching programming over-the-air or via a different MVPD. NAB supports increased consumer notification.

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Erin L. Dozier
Senior Vice President and Deputy General Counsel
Legal and Regulatory Affairs

cc: The Hon. Mignon Clyburn
Rick Kaplan

¹ See Opposition of the Broadcaster Associations in MB Docket No. 10-71 (filed May 18, 2010) at 62 (citing 47 C.F.R. §76.1601 *et seq.*)