



May 28, 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; GN Docket Nos. 09-47, 09-51, 09-137, and 10-66

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 Joshua Cinelli, Legal Advisor to Commissioner Copps, and law clerks Jay All and Michael Park.

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 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. In particular, we mentioned that retransmission consent agreements often facilitate subscriber

access to unique niche programming available via broadcasters' multicast channels.¹

- Interruptions in access to broadcast programming via MVPD service are extremely 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.
- MVPDs' proposed changes would tilt the market-based retransmission consent system in their favor, harming competition and local stations' service to their communities.
- 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.

We also 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.² We noted that although this notification requirement does not apply to all MVPDs, a technology-neutral requirement could be applied across MVPD platforms. Increased consumer notice and education would allow viewers who may be affected by 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.

Additionally, we discussed the importance of spectrum policy and interference protection to new broadcaster service offerings. During that discussion, we mentioned the recent launch of the Washington, D.C. Mobile DTV Consumer Showcase, as well as broadcasters' interest in and steps towards participation in an FCC Engineer's Forum.

¹ See Opposition of the Broadcaster Associations in MB Docket No. 10-71 (filed May 18, 2010) at 54-55, citing Comments of NAB in MB Docket No. 07-198 (filed Jan. 4, 2008), at 29; See NAB Comments, *Examination of the Future of Media and Information Needs of Communities in a Digital Age*, GN Docket No. 10-25 (filed May 7, 2010), at 17-28.

² 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.*)

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Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'ERL Dozier', written in a cursive style.

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

cc: Joshua Cinelli
Jay All
Michael Park