



1300 I Street, NW, Suite 400 West
Washington, DC 20005

Phone 202 515-2535
Fax 202 336-7922
leora.l.hochstein@verizon.com

January 20, 2011

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

RE: Petition for Rulemaking to Amend the Commission's Rules Governing Retransmission Consent, MB Docket No. 10-71

Dear Ms. Dortch:

On January 19, 2011, Will Johnson and I met with Dave Grimaldi, Legal Advisor to Commissioner Clyburn, to discuss our recommendations for improving the retransmission consent process.

We discussed how the retransmission consent rules, enacted almost two decades ago, were intended to protect television broadcast stations from cable incumbents – at the time, generally the only source for pay TV in any given area. Congress was concerned that cable's refusal to carry the stations could have affected broadcasters' viability, thus jeopardizing the public interest benefits associated with over-the-air broadcasting. Since that time, the video marketplace has undergone significant changes. With increasing frequency, consumers are being threatened with the loss of access to highly popular programming events. This is a result of the current must-carry and retransmission consent regime and the associated regulatory preferences assigned to broadcasters. Consumers are not being well served by these rules and reform is needed.

We explained that the current retransmission consent process skews negotiations for broadcast signal carriage by granting broadcasters regulatory preferences that, ultimately, result in harm to consumers through higher cable rates and service disruptions. When broadcasters make increased demands for payment in exchange for the right to carry their signal, multichannel video programming distributors (MVPDs) have two choices: they can consent to such payments, which translates into higher bills for consumers, or they can refuse broadcasters' demands, but risk exposing their customers to loss or threats of loss of much-demanded programming. These risks are particularly serious for competitive providers such as Verizon, which are unlikely to compete effectively against incumbent operators if they lack popular broadcast programming.

The best way to address these concerns would be for policymakers to scrap the existing regulatory regime and allow the marketplace for broadcast programming to function like a normal market, free of artificial regulatory preferences. Short of eliminating the protective regulatory regime, one way to reform the retransmission consent process and protect consumers from loss of

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programming would be to adopt a standstill requirement that would provide for automatic interim carriage of a broadcast signal pending completion of renewal negotiations. As long as the parties negotiated in good-faith, carriage would continue, and good-faith could be demonstrated by a willingness to submit the dispute to binding, commercial arbitration. This modest reform would restore balance to the negotiations between MVPDs and broadcasters and would protect consumers from service disruptions. In addition, elimination of network non-duplication and syndicated exclusivity rules may be helpful. These rules prevent MVPDs faced with unreasonable demands from a broadcaster from seeking out and negotiating alternative sources of programming. Eliminating these rules may provide additional partners with whom to negotiate to obtain broadcast programming.

Other suggested reforms, such as requiring MVPDs to provide notice regarding an impending renewal deadline would not be helpful, and would cause substantial, unjustified consumer anxiety and confusion. Such notice also would encourage brinkmanship tactics on the part of broadcasters.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Hochstadt". The signature is written in a cursive, flowing style.

cc: Dave Grimaldi
Bill Lake