

June 4, 2012

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

Re: Written Ex Parte Communication in
CS Docket No. 98-120

Dear Ms. Dortch:

This is written on behalf of KVMD Licensee Co., LLC ("KVMD") and in connection with the above-referenced proceeding in which the Federal Communications Commission ("FCC") is considering what action to take concerning the expiring provisions that require that all must-carry signals retransmitted on cable systems be "viewable" on all receivers connected to the system or authorized to be connected by a cable system.

KVMD, a minority owned company, which is the licensee of Station KVMD(TV), Twentynine Palms, California, urges the Commission to take such actions as are necessary in order to extend the viewability rule and, thereby, ensure that must-carry stations, including KVMD, remain accessible by all cable television subscribers, whether their cable television operator provides analog, digital, or hybrid service.

KVMD is cognizant of the difficulties in securing both must-carry treatment and retransmission consent in a large DMA. In both instances, the extent of cable carriage is a critical point and the number of homes receiving such service is a critical element. While digital carriage is growing and is believed to exceed 50% in the Los Angeles DMA, the number of analog subscribers remains significant. This is especially so since KVMD, through its primary and multicast streams, operates a multicultural service that provides foreign-language programming to the diverse populations residing in the Southern California region.

While there is probably no broadcaster that wishes to sacrifice potential viewers, KVMD knows well the problems associated with incomplete cable carriage. KVMD has had to use the Commission's Part 76 complaint processes in order to secure carriage by Commission order and negotiation, over a lengthy period of time. Each and every potential viewer it has secured has been valuable.

KVMD finds it difficult to believe that the Commission would contemplate reducing the number of potential viewers for the Station after the Station's long and continuing struggle to secure them. Each cable subscriber represents potential revenue to a Station such as KVMD and the loss of cable subscribers will have an immediate, and detrimental, impact on overall viewing and the revenue that KVMD derives from its programming.

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KVMD submits that there is no alternative to maintaining the current viewability provisions. It is aware of suggestions that cable operators notify their subscribers of the termination of stations' analog carriage and offer them set-top boxes that will replicate digital streams of the broadcast station's retransmission on their analog service. Whether these boxes exist and in adequate quantities is a subject that is not on the FCC's record. More importantly, it will require subscribers to take the affirmative action of securing and installing these boxes and making additional payments in these economically difficult times.

The record in this proceeding is devoid of any evidence of harm being caused to cable operators as a result of the viewability requirements. In turn, the record, including evidence submitted by the National Association of Broadcasters, shows that the loss of analog carriage translates into fewer station viewers and lower levels of income for broadcasters. If there is any group of broadcasters that needs to maintain revenue, it is the must-carry broadcasters who, like KVMD, provide the alternative programming, be it religious, ethnic, independent, or multicultural, not available on the major broadcast networks.

For the reasons stated above, KVMD firmly believes that must-carry stations must continue to be retransmitted by cable television systems in such a manner as they are provided to and viewable by all subscribers to the cable systems. It is strongly urged that the FCC to retain the current viewability rules for a further three-year period or until such time as cable operators discontinue their analog service.

Respectfully submitted,

KVMD LICENSEE CO., L.L.C.

By: 

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