

# COVINGTON & BURLING LLP

1201 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20004-2401  
TEL 202.662.6000  
FAX 202.662.6291  
WWW.COV.COM

BEIJING  
BRUSSELS  
LONDON  
NEW YORK  
SAN DIEGO  
SAN FRANCISCO  
SILICON VALLEY  
WASHINGTON

June 13, 2012

## **BY ECFS**

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

**Re: Notice of *Ex Parte* Communication,  
MB Docket Nos. 10-71, 09-182, 07-294, 00-168 and 00-44**

Dear Ms. Dortch:

On Monday, June 11, the following representatives of the NBC Television Affiliates (the "Affiliates") met with Commissioner Pai and his Chief of Staff, Matthew Berry: Jordan Wertlieb (Executive Vice President of Hearst Television, Inc. and President-Chairman of the Affiliates), Ralph Oakley, (President & CEO of Quincy Newspapers, Inc. and Vice Chairman -- Government Affairs of the Affiliates), Dave Lougee (President of the Broadcast Division of Gannett Co. and Vice Chairman of the Affiliates) and Brian Lawlor (Senior VP-Television of The E.W. Scripps Co. and Past President-Chairman of the Affiliates), and Jennifer Johnson of Covington & Burling LLP, counsel for the Affiliates. The purpose of the meeting was to provide an overview of the Affiliates and the issues of greatest concern to its membership.

The Affiliates representatives explained that the NBC Television Affiliates is comprised of television stations across the country that are affiliated with, but not owned by, the NBC Television Network. NBC affiliates are a part of the local communities that they serve and can provide a local perspective on policy issues affecting broadcasters. The Affiliates representatives covered four specific issues in the meeting: retransmission consent and exclusivity, broadcast spectrum issues, media ownership, and online public file.

On retransmission consent and exclusivity, the Affiliates representatives explained that these rights are vital to local broadcasting and the public interest. Retransmission consent negotiations are finally working as Congress intended, and government interference would unfairly benefit pay TV providers at the expense of local broadcast service. Altering the retransmission consent or good faith negotiation rules to benefit pay TV operators would

Ms. Marlene H. Dortch

June 13, 2012

Page 2

undermine the viability of local broadcast service and harm consumers who benefit from the unique services that broadcasters provide. Exclusivity rules, such as the network non-duplication and syndicated exclusivity rules, are central to the local/national service that network affiliates such as the NBC affiliates provide to their communities. These rules simply allow affiliates to enforce the bargained-for exclusivity rights in their programming that otherwise would be overridden by the statutory compulsory licenses applicable to broadcast signals. Without the exclusivity rules, local network affiliates who bargain for and pay for exclusive programming rights in their markets would have no means to directly enforce these rights.

With respect to broadcast spectrum, the Affiliates representatives noted that they are pleased with the statutory protections that Congress put in place with respect to the incentive auction and repacking, and look forward to working with the FCC to ensure that the auction and repacking goes smoothly, in a manner consistent with the legislative intent and the public's stake in local over-the-air television service. The details will be important, as shown by the DTV transition, to ensure that local broadcast service is not impaired during or after a repacking.

On media ownership, the Affiliates representatives noted generally that relaxation and modernization of these rules is needed to meet current challenges and to reflect the heightened competition in today's marketplace. They noted that the current rules are based on outdated notions of media markets and voices -- the ownership rules should reflect that competition and diversity in media are being experienced across media platforms. Modernization of the rules is needed in order to ensure that broadcasting can continue as a strong source of local journalism. Given the challenges facing the newspaper industry (which was denied relief from ownership restrictions), preserving local broadcasting is all the more urgent. Duopoly relief is particularly important in small markets. The Affiliates representatives also noted the public benefits of shared services agreements, local news sharing agreements, and other similar sharing arrangements. These arrangements strengthen weaker stations and make available more and higher quality news and entertainment services to local communities. Restricting such arrangements would not increase diversity or localism, but would have the opposite effect by eliminating efficiencies that promote stronger public service. For example, without the support of sharing agreements, numerous stations that provide many hours of local news each week would have no news service at all.

With respect to the online public file proceeding, the Affiliates representatives expressed concern about the FCC's decision to require each television station's advertising rates to be posted real-time on an FCC web site. The Affiliates representatives stated that they believe there are alternative proposals that would better serve the public interest without causing the same harms to broadcasters and the marketplace. They noted that a petition was being filed by a group of broadcasters the same day with the FCC setting forth a proposal that would permit broadcasters to opt in to an alternative to posting specific political advertising rates online.

COVINGTON & BURLING LLP

Ms. Marlene H. Dortch  
June 13, 2012  
Page 3

Under this proposal, aggregated information would be made available setting forth the total amount of money a political advertiser spent on the station, without showing the rates for particular spots. In addition, the proposal calls for stations to provide information about political spots that are not currently detailed in the political file, including spots about state and local political issues.

Please direct any questions about this matter to the undersigned.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Jennifer A. Johnson  
COVINGTON & BURLING LLP  
1201 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2401  
(202) 662-6000  
*Counsel for the NBC Television Affiliates*

cc: Commissioner Pai  
Matthew Berry