

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
Crystal Cable TV Inc.)
)
Enforcement Complaint Concerning)
WXMI(TV), Grand Rapids, Michigan)

MB Docket 12-__
CSR _____

To: The Secretary's Office
Attn: The Media Bureau

ENFORCEMENT COMPLAINT

Tribune Television Holdings, Inc., Debtor-in-Possession ("Tribune"), licensee of full-power television station WXMI(TV), Grand Rapids, Michigan, by its attorneys, hereby files this Enforcement Complaint against Crystal Cable TV Inc. ("Crystal"). Since January 1, 2012, Crystal has retransmitted without Tribune's consent the signal for WXMI(TV) on its cable system serving the communities of Crystal, Michigan (the "Community") in the Grand Rapids-Kalamazoo-Battle Creek ("DMA") in violation of Section 325(b)(1)(A) of the Communications Act of 1934, as amended (the "Communications Act"), 47 U.S.C. § 325(b)(1)(A), and Section 76.64(a) of the Commission's rules, 47 C.F.R. § 76.64(a). Tribune seeks an Order compelling Crystal to comply with the law and imposing such sanctions on Crystal as the Bureau deems appropriate for the operator's knowing, deliberate, and continuing violations of the law.

ARGUMENT

Under the Communications Act and the Commission's rules, cable systems may not retransmit the signal of a television broadcast station without the consent of the broadcaster. Section 325(b) of the Communications Act provides that cable systems and multichannel video programming distributors must obtain the "**express authority** of the originating station" to

retransmit the signal of a broadcasting station.¹ Section 76.64 of the Commission's rules adds the requirements that the originating station's express consent must be in writing and must "specify the extent of the consent being granted."² The Commission has stated that "properly documented retransmission of a television signal without consent would be grounds for imposition of a forfeiture."³

The Communications Act requires Crystal to obtain Tribune's consent to retransmit WXMI(TV). Crystal's System serving the Community is indisputably a multichannel video programming distributor within the meaning of Section 602 of the Communications Act.⁴ Based upon information and belief, it is a facility that is equipped to provide multiple channels of video programming and cable service to multiple subscribers within a community.⁵ Likewise, WXMI(TV) is indisputably a broadcasting station within the meaning of Section 3 of the Communications Act because it is a television station equipped to broadcast a television signal to the public.⁶ Nielsen Media Research, Inc. has assigned WXMI(TV) to the Grand Rapids-Kalamazoo-Battle Creek DMA.⁷ Crystal, Michigan is within the Grand Rapids-Kalamazoo-Battle Creek DMA. Tribune properly elected retransmission consent for WXMI(TV) on the Crystal System for the 2012-2014 carriage cycle.⁸ Therefore, Crystal must obtain Tribune's express, written consent to retransmit WXMI(TV)'s signal on its System. In December 2011,

¹ 47 U.S.C. § 325(b)(1)(A) (emphasis added). Exceptions to this rule, including those for local commercial stations that elect to assert their must-carry rights, are not applicable here. See 47 U.S.C. §§ 325(b)(1)(B), 534(b).

² 47 C.F.R. §§ 76.64(a), 76.64(i), 76.64(j).

³ In the Matter of Implementation of the Cable Television and Consumer Protection and Competition Act of 1992, 8 FCC Rcd 2965, 3005 at para. 175 (1993).

⁴ See 47 U.S.C. §§ 522(7), 522(13).

⁵ See List of Registered Texas Cable Communities, available at <http://www.fcc.gov/mb/engineering/list/MI.xls> (last visited June 15, 2012) (showing Crystal Cable systems registered as MI1364 in Crystal, Michigan).

⁶ See 47 U.S.C. §§ 153(5), 153(6); See FCC File Number BLCDDT-20030117ABD.

⁷ See BIA/Kelsey, Investing in Television: *Market Report 2011* at 41 (identifying DMA assignments applicable to the current carriage cycle).

⁸ See Exhibit A.

Tribune sent Crystal a proposal for retransmission.⁹ In January 2012, Tribune's Vice President for Affiliate Sales in the Central Region, Patrick Van De Walle spoke with Crystal's General Manager Mark Winslow. During the phone conversation, Mr. Winslow indicated he would send back a counter-proposal. On January 25, 2012, Mr. Van De Walle followed up his conversation by sending Mr. Winslow an email requesting an update or a counter-proposal. On February 9, 2012, Mr. Van De Walle emailed Mr. Winslow again requesting an update, and Mr. Winslow responded that he would send a counter-proposal in a few days. Tribune never received a counter-proposal from Crystal or any further communication from Crystal. Over the next few months, Mr. Van De Walle followed up with several emails and phone calls to which Crystal has not responded.

Therefore, Crystal does not have Tribune's consent to retransmit WXMI(TV) on its System, yet Crystal apparently continues to retransmit WXMI(TV)'s signal on its System.¹⁰ Crystal's continued retransmission without consent violates the Communications Act and the Commission's rules. In a final attempt to resolve this matter before filing this Complaint, on May 29, 2012, Tribune sent a written notice to Crystal to inform it that Crystal's continued retransmission of WXMI(TV)'s signal violates federal law.¹¹ Crystal has not responded to that letter or any of Tribune's other inquiries leaving Tribune little choice but to enforce its rights before the Commission.

CONCLUSION

Since January 1, 2012, Crystal has retransmitted WXMI(TV)'s signal on its cable systems without Tribune's express, written consent. Crystal therefore knowingly and willfully violated the Communications Act and the Commission's rules. Tribune requests that the Bureau promptly issue an order directing Crystal to come into compliance with its obligations with

⁹ See Exhibit B.

¹⁰ See TV Listings Guide for Crystal Cable, at <http://www.crystalcable.tv/> (last visited June 15, 2012); Exhibit C.

¹¹ See Exhibit D.

respect to WXMI(TV)'s signal on all of the Systems and imposing such sanctions on Crystal as the Bureau deems appropriate.

Respectfully submitted,

TRIBUNE BROADCASTING COMPANY



Robert J. Folliard, III
Kerry E. Stotler

DOW LOHNES PLLC
1200 New Hampshire Ave., NW
Suite 800
Washington, DC 20036
202-776-2000

Its Attorneys

June 19, 2012

EXHIBIT A

September 6, 2011 Retransmission Consent Election Notice

TRIBUNE

BROADCASTING

435 N Michigan Avenue – Chicago, IL - 60611

September 6, 2011

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Crystal Cable Tv Inc
Attn: Mark Winslow- General Manager
PO Box 365
Crystal, MI 48818-9746

Re: Election Notice

Dear Ladies and Gentlemen:

Tribune Broadcasting Company (“Broadcaster”) provides Crystal Cable Tv Inc (“Operator”) with this notice pursuant to Section 325 of the Communications Act of 1934, as amended, and Section 76.64(f) of the Rules and Regulations of the Federal Communications Commission. Broadcaster is the ultimate owner of the television stations identified in Attachment A hereto (each, a “Station”).

For the period January 1, 2012 through December 31, 2014, Broadcaster hereby elects **RETRANSMISSION CONSENT** with respect to the primary video stream of each such Station’s digital signal on each of Operator’s multichannel video programming distribution systems in each Station’s respective market, as identified in Attachment A, including but not limited to those multichannel video programming distribution systems identified in or covered by Broadcaster’s retransmission consent agreement with Operator and/or listed in Attachment B.

Please direct any questions or correspondence to me at the address on this letter.

Very truly yours,



Gina M. Mazzaferri
SVP, Administration
& Chief Financial Officer

Attachment
cc (by e-mail): Public Inspection Files

ATTACHMENT A**TRIBUNE BROADCASTING STATIONS**

Licensee Name	Station	DMA	Community of License
WPIX, Inc.	WPIX(TV)	New York	New York, NY
KTLA Inc.	KTLA(TV)	Los Angeles	Los Angeles, CA
WGN Continental Broadcasting Company	WGN-TV	Chicago	Chicago, IL
Tribune Television Company	WPHL-TV	Philadelphia	Philadelphia, PA
Tribune Television Company	KDAF(TV)	Dallas	Dallas, TX
WDCW Broadcasting, Inc.	WDCW(TV)	Washington	Washington, DC
KIAH Inc.	KIAH(TV)	Houston	Houston, TX
Tribune Television Holdings, Inc.	KZJO(TV)	Seattle-Tacoma	Seattle, WA
Tribune Television Northwest, Inc.	KCPQ(TV)	Seattle-Tacoma	Tacoma, WA
Channel 39, Inc.	WSFL-TV	Miami-Fort Lauderdale	Miami, FL
KWGN Inc.	KWGN-TV	Denver	Denver, CO
Channel 40, Inc.	KTXL(TV)	Sacramento-Stockton-Modesto	Sacramento, CA
KPLR, Inc.	KPLR-TV	St. Louis	St. Louis, MO
Tribune Broadcast Holdings, Inc.	KRCW-TV	Portland	Salem, OR
Tribune Television Company	WXIN(TV)	Indianapolis	Indianapolis, IN
Tribune Broadcast Holdings, Inc.	WTTV(TV)	Indianapolis	Bloomington, IN
Tribune Broadcast Holdings, Inc.	WTTK (TV) (satellite WTTV(TV))	Indianapolis	Kokomo, IN
KSWB Inc.	KSWB-TV	San Diego	San Diego, CA
Tribune Television Company	WTIC-TV	Hartford-New Haven	Hartford, CT
WCCT, Inc.	WCCT-TV	Hartford-New Haven	Waterbury, CT
Tribune Television Company	WPMT(TV)	Harrisburg-Lancaster-Lebanon-York	York, PA
Tribune Television Holdings, Inc.	WXMI(TV)	Grand Rapids-Kalamazoo-Battle Creek	Grand Rapids, MI
Tribune Television New Orleans, Inc.	WGNO(TV)	New Orleans	New Orleans, LA
Tribune Television New Orleans, Inc.	WNOL-TV	New Orleans	New Orleans, LA

ATTACHMENT B

Crystal Cable Tv Inc SYSTEMS CABLE SYSTEMS

Station	Head End
WXMI	CRYSTAL

Exhibit B

December 29, 2011 Retransmission Proposal

TRIBUNE

BROADCASTING

December 29, 2011

Mr. Mark Winslow
GM
Crystal Cable TV Inc.
122 W Lake Street
Crystal, MI 48818

Dear Mr. Winslow -

Outlined below is our proposal for Crystal Cable TV and Tribune Broadcasting. Rates and Terms of this proposal are good for 14 days from the above date.

Term: January 1, 2012 through December 31, 2014

Broadcast Stations: In Market:
WXMI-FOX Grand Rapids

Broadcast Rates: Cash consideration for in-DMA Stations affiliated with FOX network:
2012 -
2013 -
2014 -

Broadcast Carriage: All in-DMA Systems will carry the down converted primary feed of the above Tribune Stations. Any in-DMA System that carries any other station in HD format will also carry the above Tribune Stations' HD channels in HD and all multicast channels in SD.

Channel Position: Current position for down converted signals. Multicast channel positions selected by operator in same neighborhood as other multicast channels or programming of same genre; provided that operator may not discriminate against Tribune Stations.

If this is acceptable, please indicate your agreement by signing and returning this letter to my attention.

Sincerely,

Kevin Connor
SVP Affiliate Sales

Agreed:
Crystal Cable TV

By: _____

Name: _____

Title: _____

Exhibit C

Crystal Cable TV Channel Lineup

CABLE TELEVISION CHANNEL LINE-UP

2	FAM	ABC Family Channel
3	NICK	Nickelodeon
4	USA	USA Variety
5	FOX 17	WXMI Grand Rapids
6	CBS 6	WLNS Lansing
7	PBS 14	WCMU Mt. Pleasant
8	NBC 8	WOOD Grand Rapids
9	WGN 9	Chicago
10	NBC 10	WILX Lansing
11	TCT 49	WAQP Saginaw
12	ABC 12	WJRT Flint
13	ABC 13	WZZM Grand Rapids
14*	*HBO	Premium Movie
15*	*CINEMAX	Premium Movie
16	CNN	Cable News Network
17	HLN	Headline News
18	SPIKE TV	Nashville Network
20*	*STARZ	Mini Premium
21*	*AMC	Movie
22*	*ENCORE	Package
23	TBS	Turner Broadcasting
24	ESPN	National Sports
25	FSD	Fox Sports Detroit
26	TCM	Turner Classic Movies
27	VERSUS	Versus
28	LOCAL INFORMATION	
29	CMT	Country Music Television
30	DISC	Discovery Channel
31	MTV	Music Television (Pop)
32	TNT	Turner Network
33	HGTV	Home & Garden
34	A&E	Arts & Entertainment
35	OUT	Outdoor Channel
36	BIG 10 NETWORK	College Sports
37	ESPN2	National Sports
38	TWC	Weather Channel
39	HSN	Home Shopping Network
40	SPORTSMANS	Sportsmans Channel
41	FX	FX Variety
42	DISN	Disney Channel
43	ION 43	WZPX Grand Rapids
44	COM	Comedy Central
45	CART	Cartoon Network
46	TVL	TV Land
47	QVC	Home Shopping
48	VH-1	Music(Rock\Pop)
49	HIS	History Channel
50	MSNBC	News
51	SYFY	SYFY Channel
52	FSDP	Fox Sports Detroit Plus
53	TLC	The Learning Channel
54	NATGEO	National Geographic
55	FOOD	Food TV
56	HLMK	Hallmark Channel
57	CNBC	Business Financial News
58	LIFE	Lifetime Network
59	SPEED	Speedvision
60	FOXN	FOX NEWS
61	C SPAN	Government

MONTHLY RATES

Total Basic	\$40.00
Mini Movie Pack	\$7.95
HBO or Cinemax	\$11.95
DIAL UP INTERNET	INC.

Wireless Internet

Installation	\$199.00
Monthly Service	\$39.95

SERVICE FEES

Basic Install (1 outlet)	\$85.00
Each Additional Outlet	\$45.00
Reconnect Fee	\$40.00
Disconnect Fee	\$40.00
Disconnect Fee (Non Pay)	\$45.00
Service Call	\$45.00
Change of Service	\$10.00
(account must be current)	

Order Online

Payment Policies

*Cable TV and Internet services are billed in advance on the 20th of each month.

*Payment is due on the 1st.

*Unpaid services are subject to a \$5.00 late fee after the 10th.

*Unpaid services after the 10th of the following month will be disconnected and a \$45.00 disconnect fee will be charged.

*Accounts disconnected for non payment must have all charges paid in full before service can be restored.

Effective December 10, 2010

Pay Bill Online

Crystal Cable TV
122 Lake Street Box 365
Crystal Michigan 48818
989.235.3948 voice
989.235.3972 fax

Contact Us

CRYSTAL CABLE TV

Exhibit D

May 29, 2012 Advance Notice of Potential Infringement



Kevin Connor
SENIOR VICE PRESIDENT, AFFILIATE SALES & MARKETING

ADVANCE NOTICE OF POTENTIAL INFRINGEMENT

May 29, 2012

**VIA CERTIFIED MAIL AND
VIA EMAIL (mark@crystalcable.tv)**

Mark Winslow
General Manager
Crystal Cable TV Inc.
122 W Lake Street
Crystal, MI 48818

Re: WXMI Retransmission

Dear Mr. Winslow:

Tribune Broadcasting Company ("Broadcaster") is the owner and operator of WXMI, Grand Rapids, Michigan (the "Station"). Since January 1, 2012, Crystal Cable TV Inc. ("Crystal") has been retransmitting the signal of the Station without the express consent from Broadcaster required by federal law. We therefore are forced to send Crystal this Advance Notice of Copyright Infringement.

Quite simply, Crystal's continued retransmission of the Station's signals is illegal. By continuing to retransmit the Station without Broadcaster's "express consent," Crystal has knowingly and willfully violated the retransmission consent provisions of Section 325(b) of the Communications Act of 1934, as amended, and Section 76.64 of the FCC's rules. Furthermore, because Crystal's retransmission of the signal does not comply with the FCC's rules, such carriage does not qualify for the statutory cable retransmission copyright license under 17 U.S.C. Section 111. Accordingly, Crystal's carriage of Broadcaster's Station also constitutes a willful act of copyright infringement.

We hereby notify Crystal that Broadcaster will seek all remedies available at the Federal Communications Commission and in federal court, including, without limitation, statutory damages and recovery of attorneys' fees and costs. By providing Crystal with this Advance Notice of Potential Infringement, we establish, pursuant to 17 U.S.C. Section 411(b), our right as copyright owner of the Station's original programming to institute a cause of action for copyright infringement. In particular, we provide you with this notice of infringement of Broadcaster's original programming, including all local news presentations, beginning on January 1, 2012.

Carriage of the Station's signal without consent is a serious violation of federal law and subjects Crystal to substantial liability under the Communications Act independent of any copyright liability. Indeed, the FCC recently declared that such illegal carriage could subject a cable operator to a potential forfeiture of \$7,500 per day, bringing Crystal's potential total forfeiture to \$1,087,500. *See Bailey Cable TV, Inc. Notice of Apparent Liability for Forfeiture*, 27 FCC Rcd. 2631 (Med. Bur. 2012). For your reference, I have attached to this correspondence a copy of the FCC's decision in *Bailey Cable*.

Broadcaster expressly reserves all of its rights in this matter including, without limitation, its rights to seek actual and punitive damages, injunctive relief, attorneys' fees and all other available legal and equitable remedies from the courts and the FCC.

Unless Broadcaster receives a response to this letter from Crystal no later than 3:00PM Eastern Time on Thursday, May 31, 2012, Broadcaster will have no choice but to submit an enforcement complaint with the FCC against Crystal for its violation of the Commission's retransmission consent provisions.

Very truly yours,



Kevin Connor
Senior Vice President,
Affiliate Sales and Marketing

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Crystal Cable TV Inc.)
)
Enforcement Complaint Concerning)
WXMI(TV), Grand Rapids, Michigan)

DECLARATION OF KEVIN CONNOR

1. My name is Kevin Connor, and I am directly responsible for negotiating retransmission consent for WXMI(TV).
2. I have read the foregoing Enforcement Complaint (the "Complaint"), and I am familiar with the contents thereof.
3. On December 29, 2011, I sent a written retransmission proposal to Crystal. A true and correct copy of that letter is attached as Exhibit B. In February 2012, Crystal indicated it would send a counter-proposal. I never received a counter-proposal from Crystal.
4. On May 29, 2012, I sent a letter to Mr. Mark Winslow at Crystal advising him that continued retransmission of WXMI(TV) without express consent violated federal law. A true and correct copy of that letter is attached as Exhibit C.
5. I declare under penalty of perjury that the facts contained herein and within the foregoing Complaint are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry, that the Complaint is well grounded in fact, that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose.



Kevin Connor
220 East 42nd Street, Suite 400
New York, NY 10017

Dated: June 18, 2012

CERTIFICATE OF SERVICE

I certify that on this 19th day of June, 2012, I caused the foregoing Enforcement Complaint to be served by email (and first-class mail where noted) on the following:

William T. Lake
Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

P. Michele Ellison
Chief, Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Michelle Carey
Deputy Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Nancy Murphy
Associate Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
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Diana Sokolow
Attorney Advisor, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Mark Winslow*
General Manager
Crystal Cable TV Inc.
122 W Lake Street
Crystal, MI 48818
mark@crystalcable.tv

*Denotes delivery via first-class mail
in addition to email


Rayya Khalaf