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March 6, 2014

Via ECFS

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

Re: ***American Cable Association Ex Parte Presentation* Re: *2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*; MB Docket No. 09-182; *Amendment of the Commission's Rules Related to Retransmission Consent*, MB Docket No. 10-71**

Dear Ms. Dortch:

The American Cable Association ("ACA") has argued that allowing separately owned, same-market "Big 4" broadcasters to coordinate their retransmission consent negotiations suppresses local television competition, resulting in higher retransmission consent fees, and the Commission should therefore deem coordinated retransmission consent negotiations as an activity that creates an attributable ownership interest under the Commission's multiple ownership rules.[1] Recent news reports have suggested that the Commission is currently considering moving ahead with its proposal to make certain types of coordinated activities among separately owned television stations in a single designated market area, such as Joint Sales Agreements ("JSAs") attributable. They also suggest that if the Commission decides to make new types of coordinated activities between broadcasters attributable, that it may decide to give broadcasters a grace period of up to two years to unwind existing arrangements so as to come into compliance with the duopoly ownership prohibition.[2]

ACA maintains that there is absolutely no need for the Commission to provide such a substantial grace period in the case of coordinated retransmission consent negotiations, even if such a grace period would be appropriate for some types of coordinated activities that may be difficult for the stations to unwind quickly, such as joint sales of advertising and other forms of sharing of station facilities and resources. Broadcasters do not need to engage in significant long-term planning or significant long-term investments to be able to conduct their own retransmission consent negotiations. As ACA has repeatedly observed, requiring each station in a market to conduct its own

[1] *See, e.g.*, Comments of the American Cable Association, MB Docket No. 09-182, at 13-28 (filed on Mar. 5, 2012) ("ACA Media Ownership Comments"); Reply Comments of the American Cable Association, MB Docket No. 09-182, at 1-42 (filed on Apr. 7, 2012) ("ACA Media Ownership Reply Comments").

[2] *See, e.g.*, Gautham Nagesh, *FCC Targets TV Joint Ad-Sales Deals*, Wall St. J., Feb. 25, 2014 (reporting that broadcasters will be required to meet any new requirements "within two years"); John Eggerton, *FCC Won't Loosen Crossownership in Quadrennial: Sources*, Multichannel News, Feb. 7, 2014 (reporting that "Multiple sources said that the order would give station owners two years – rather than a previously suggested 18 months – to unwind any deals that would run afoul of ownership limits.")

retransmission consent negotiations would not interfere with stations continuing to engage in other types of coordinated activities that were potentially more difficult to unwind.[3]

Furthermore, the majority of retransmission consent deals are on a common three-year negotiation cycle and come up for renewal at the end of 2014. This means that if the Commission decides to make coordinated retransmission consent negotiations attributable, but provides broadcasters with a grace period for conducting coordinated negotiations that extends into the beginning of 2015, cable operators and consumers will effectively see no benefits from the Commission's actions until the start of the next negotiation cycle in 2017.

ACA strongly urges that if the Commission decides to deem attributable the practice of coordinated retransmission consent negotiations, it should make this rule effective on the day the order is published in the Federal Register or, at a minimum, that it take effect well before negotiations begin for retransmission consent agreements that expire at the end of 2014.

If you have any questions, or require further information, please do not hesitate to contact me directly. Pursuant to section 1.1206 of the Commission's rules, this letter is being filed electronically with the Commission.

Sincerely,

Barbara Esbin

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Cc: Gigi Sohn
Maria Kirby
William Lake
Michelle Carey
Raelynn Remy

[3] *See, e.g.*, ACA Media Ownership Comments at 22-23; ACA Media Ownership Reply Comments at 14-17.