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March 6, 2014

Jonathan Sallet, Esq.
Acting General Counsel
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 10-71

Dear Mr. Sallet:

During your meeting with representatives of Mediacom Communications Corporation (“Mediacom”) on February 24, 2014, you asked the Mediacom representatives to identify some proposed retransmission consent reforms that Mediacom believes are within the Commission’s authority and that would provide meaningful relief for consumers who are being harmed by the breakdown in the current regulatory regime. Mediacom’s *ex parte* notice regarding the February 24, 2014 meeting cited to its previously filed comments that contain a number of suggested reforms. The purpose of this letter is to more specifically describe several proposals that the Commission can and should consider adopting.

Exclusivity reform: The Commission can and should repeal its network non-duplication and syndicated exclusivity rules (or, in the alternative, amend those rules so that they cannot be invoked by a station that has forced an MVPD to cease carrying the station). In addition, the Commission should clarify that it is a violation of the good faith retransmission consent negotiation obligation for an out-of-market station to enter into an agreement, understanding or other arrangement with a national broadcast network or other program supplier that directly or indirectly prevents or deters the station from exercising its right to grant retransmission consent to any MVPD. These reforms clearly fall within the scope of the Commission’s broad authority to regulate the carriage of broadcast signals (*i.e.*, the authority under which the exclusivity rules were adopted) and to regulate the network/affiliate relationship as well as the Commission’s authority to regulate the good faith exercise of retransmission consent.

Sweeps blackouts: The Commission can and should prohibit blackouts during any sweeps period, the first two weeks of a new season for network series, or within a 30-day window around a marquee broadcast television event or program. The Commission’s authority to adopt such a limitation derives from its general power to regulate the good faith exercise of retransmission consent and its authority to ensure that broadcast television stations serve the

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public interest (and the Commission's ancillary authority to take such actions as needed in pursuit of that goal).

Off-air reception threshold. The Commission can and should establish a minimum off-air reception threshold that a local television broadcaster must meet before it can force an MVPD to cease carrying its signal. Specifically, the Commission should only permit a station to force a suspension in the carriage of its signal if a minimum of 95 percent of the viewers in the station's DMA can receive that signal using a set-top antenna. Ensuring the off-air availability of broadcast stations (the ultimate goal of the retransmission consent provisions of the 1992 Cable Act) clearly falls within the Commission's direct and ancillary jurisdiction over the operations of television broadcast stations. Stations could satisfy this standard by spending a minor part of the retransmission consent fees being collected on construction of repeater antennas.

Simultaneous expiration dates for a station's retransmission consent agreements. The Commission can and should mandate that all of a station's retransmission consent agreements in a DMA must have the same expiration date and that, if an extension beyond the scheduled expiration date is given to any of the MVPDs in the DMA, a similar extension must be offered to the other MVPDs in the DMA on comparable terms. The Commission's authority to adopt such a requirement can be found in its authority to adopt rules implementing the statutory provision establishing a 3-year retransmission consent election cycle and the other sources of its authority already mentioned.

Blackouts of multiple stations in a DMA. To ensure that viewers have meaningful viewing options and to enhance the probability of widespread access to emergency alerts and other critical information, the owner or manager of multiple stations in a DMA should not be allowed to black-out more than one of those stations during the same time period. The Commission's authority to adopt such a limitation arises from its general power to regulate the good faith exercise of retransmission consent and its ancillary authority to take actions to ensure that broadcast television station serve the public interest.

Transparency/Rate cards. Market transparency and price discovery, which are critical components of a competitive market, are absent from the retransmission consent marketplace. Broadcasters do not publish "rate cards" or other information about the prices and terms of retransmission consent that would allow MVPDs to accurately gauge market prices. Broadcasters also impose confidentiality requirements that prevent MVPDs from sharing that information with consumers or interested government officials and legislators. Pursuant to its authority to establish regulations governing the exercise of retransmission consent and its other sources of authority over broadcast station operations, the Commission should mandate the public disclosure of retransmission consent fees.

A la carte carriage option. In response to a station's election of retransmission consent, an MVPD should have the option of electing either to engage in negotiations with the station or

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of giving the station access to channel capacity which the station can use to make its signal (including multicast streams) available for purchase by consumers on an *a la carte* basis at a price to be set by the station (with billing and collection handled by the MVPD). As suggested at our meeting, this option probably would require action by Congress. However, the Commission can and should take action to recommend to Congress that it adopt whatever measures are needed to give MVPDs and their customers this *a la carte* option.

The above-described proposals, while by no means the only reforms that have been suggested and that the Commission should consider, all represent actions that, if taken (either jointly or separately) would provide meaningful relief to consumers. As we discussed, an imbalance in the market power of broadcasters (who enjoy monopolies over content for which there is no close substitute) and MVPDs (who face competition) is the primary reason that consumers are subjected to blackouts and astronomical retransmission consent fee increases even as popular content is migrated to broadcasters' affiliated cable networks and news operations are consolidated and homogenized. Our proposals may help to better balance bargaining power without requiring the Commission to pick winners or losers in retransmission consent negotiations. We would be happy to meet with you in person or by phone to discuss any of these proposals.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, a copy of this notice is being filed electronically in the relevant docket. In addition, a copy is being provided to each of the participants in the February 24, 2014 meeting.

Sincerely,



Seth Davidson
*Counsel for Mediacom Communications
Corporation*

cc: M. Dortch
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