Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of the Commission's Rules	)	MB Docket No. 10-71
Related to Retransmission Consent	)	
	)	

COMMENTS OF THE NBC TELEVISION AFFILIATES

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I. INTRODUCTION AND SUMMARY

The NBC Television Affiliates ("NBC Affiliates")[1] submit these Comments in response to the Commission's Further Notice of Proposed Rulemaking, which seeks information about the impact of elimination or modification of the syndicated exclusivity and network non-duplication rules.[2] The NBC Affiliates strongly urge the Commission to preserve the existing exclusivity framework, which benefits consumers and promotes the public interest. The exclusivity rules are part of a complex system of communications regulations and copyright statutes that govern multichannel video programming distributors' ("MVPDs") carriage of television programming; eliminating only one portion of this balanced system would lead to unfair and unintended results. As the Commission and Congress have recognized for decades, these rules ensure that broadcasters can deliver free, over-the-air local news, public affairs programming, and entertainment to all communities. The exclusivity rules promote competition across platforms and enable broadcasters to enforce the exclusivity rights that they bargained for

[1] The NBC Television Affiliates is an association of broadcast television stations that are affiliated with the NBC Television Network. Members of the NBC Television Affiliates operate approximately 225 stations.

[2] *Network Non-Duplication and Syndicated Exclusivity Rules*, Report and Order and Further Notice of Proposed Rulemaking in MB Docket No. 10-71 ("FNPRM") (March 31, 2014).

with programmers and networks. Without the exclusivity rules, cable and satellite carriers could import the distant signals of other stations, rendering the exclusivity agreements impossible for the local station to enforce. Repeal would threaten the system of free, local, over-the-air local programming that has been a cornerstone of every community nationwide since the launch of television.

II. THE EXCLUSIVITY RULES ARE ESSENTIAL TO FREE, OVER-THE-AIR BROADCASTING THAT SERVES THE GENERAL PUBLIC

The exclusivity rules are a catalyst in the complex formula that enables broadcasters to provide free, high-quality television to the general public. Repeal would harm the tens of millions of Americans who depend on free, over-the-air broadcast television for entertainment, sports, emergency information, and local news, as well as the many millions more that subscribe to pay television service and rely on the local news, weather, and emergency information uniquely provided by local television stations -- information that is not available from national cable channels or distant television stations.

Pay television is increasingly out-of-reach for many Americans, making free, local broadcast television more important than ever. Nearly 60 million Americans rely exclusively on free, over-the-air television.[3] Minority households are more than 40 percent of the total broadcast-only households in the United States.[4] Television households with annual incomes less than $50,000 are more than twice as likely as other households to forgo

[3] Press Release, National Association of Broadcasters, *Over-the-Air TV Renaissance Continues as Pay TV Cord-Cutting Rises* (June 21, 2013).

[4] *Id.*

subscriptions to cable and satellite services.[5] According to Commission data, the average expanded basic cable bill nearly doubled between 2000 and 2012, nearly three times the rate of inflation.[6]

Even for those who subscribe to cable or satellite services, local broadcasters provide information that they cannot find elsewhere. A recent Pew Research Center study concluded that "local TV remains a top news source for Americans, with almost three out of four U.S. adults (71%) watching local television news."[7] According to the Commission's comprehensive 2011 report on *The Information Needs of Communities*, "[t]oday, the most popular source for local news is television."[8] Local TV stations' dedication to community news coverage is unquestioned and unparalleled. As the Commission noted, during the 2009 recession, 28.6 percent of local television stations *added* newscasts to their schedules.[9] Moreover, "local TV stations are becoming important sources for news online," and "local TV news sites rank among the most popular news websites (those with at least a half a million monthly unique visitors), along with newspaper sites."[10] Cable-only television channels simply do not have the same dedication to or connection with their local communities that broadcasters have had for decades.

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[5] Press Release, Leichtman Research Group, *86% of TV Households Subscribe to a Multi-Channel Video Service*, *available at* http://www.leichtmanresearch.com/press/080813release.html (Aug. 8, 2013).

[6] Report on Cable Industry Prices, MB Docket No. 92-266 (May 16, 2014).

[7] Pew Research Center's Project for Excellence in Journalism, The State of the News Media 2013, *available at* http://stateofthemedia.org/2013/local-tv-audience-declines-as-revenue-bounces-back/.

[8] Steven Waldman *et al*., *The Information Needs of Communities* (July 2011) at p.76.

[9] *Id.*

[10] *Id.*

Repeal of the exclusivity rules would endanger this localism by reducing the amount of advertising revenues that stations receive. Nearly 90 percent of broadcasters' revenue comes from local advertising.[11] Basic economic principles dictate that broadcasters will receive less advertising revenue if the local cable company imports duplicative national programming into the market despite privately negotiated programming exclusivity. As the Commission correctly concluded last year, "[g]enerally, advertising rates are determined by a station's overall ability to attract viewers in its market area and a station's ability to attract viewers generally and among particular demographic groups that an advertiser may be targeting."[12]

The link between exclusivity rules and stable advertising revenue is well-established. When the Commission restored the syndicated exclusivity rule in 1988, it found that "the potential for duplicating broadcasters' programs, diverting broadcasters' audiences and advertising as a result of an unbalanced regulatory regime is far greater than we expected it to be when we rescinded our syndicated exclusivity rules."[13] The Commission reasoned that "advertisers will generally, depending on audience demographics, be willing to pay more to advertise on broadcast programming which attracts a large audience. Conversely, as audiences are diverted from that programming, advertisers will pay less."[14] There is much talk about how the market has evolved, how the Internet has shifted the landscape, but in some important ways nothing has changed since the FCC reached this conclusion: local advertising revenue remains

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[11] *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Fifteenth Report, 28 FCC Rcd 10496, 10583 (July 22, 2013).

[12] *Id.*

[13] *In Re Amendment of Parts 73 and 76 of the Commission's Rules Relating to Program Exclusivity in the Cable and Broadcast Industries*, Report and Order, 3 FCC Rcd 5299 ¶ 32 (1988) ("1988 Exclusivity Order"), aff'd, 890 F.2d 1173 (D.C. Cir. 1989).

[14] *Id.* at ¶ 40.

tied to the station's local audience size and ratings.[15] If a consumer can receive the same programming on multiple channels, the station's audience will be smaller, and revenues will decrease.

Moreover, duplicative programming coming into the market would diminish a local station's ability to negotiate fair retransmission consent agreements with cable and satellite operators. If cable and satellite companies can thwart a station's negotiated local exclusivity by easily importing distant signals that contain the same national programming that local stations provide, the local stations will have a significant disadvantage in negotiating market-based retransmission consent terms. The end result of this inequity would be a reduction in revenues that fund local stations' programming.

Modifying or eliminating the exclusivity rules also would undermine exclusive rights that stations have purchased to distinguish themselves from other local broadcasters. For example, a station may contract with an announcer to provide all of the station's voiceovers. Although that announcer may produce voiceovers for numerous broadcasters nationwide, such contracts typically include exclusivity provisions that prevent the announcer from providing voiceovers to other stations in the same market. This exclusivity helps to establish the announcer as the "voice" of the station. Similarly, a station may contract with music producers for the exclusive in-market rights to music that is used in promos or station-produced programming. Viewers eventually associate that music with the station. Elimination of the exclusivity rules would allow an MVPD to import out-of-market stations that use the same announcer or music,

[15] *See* Nielsen - TV Measurement (last visited June 5, 2014), *available at* http://www.nielsen.com/us/en/nielsen-solutions/nielsen-measurement/nielsen-tv-measurement.html ("National and local TV ratings help media companies and brands decide how to spend the nearly $70 billion on TV advertising in the U.S. alone. Ratings are only one of the audience measurement services we provide.").

resulting in consumer confusion, degrading the value of the rights purchased by the station, and preventing the local broadcaster from developing a unique brand identity.

Congress has long recognized the reasons for the exclusivity rules. When Congress passed the 1992 Cable Act, which created the structure for retransmission consent, it noted that "[s]ome cable systems are demanding, for example, that local broadcasters drop their legal rights under syndex or network non-duplication rules in order to receive carriage."[16] Congress also concluded that changes to the exclusivity rules in a manner which would allow distant stations to be substituted on cable systems for carriage of local stations carrying the same programming "would, in the Committee's view, be inconsistent with the regulatory structure created in S. 12."[17]

In short, the exclusivity rules provide the certainty and expeditious forum that are fundamental to the ability of broadcasters to make the investments necessary to provide customers with high quality entertainment, sports and local news, and other programming on a free, over-the-air basis. The Commission properly concluded in 1988 that the lack of the syndicated exclusivity rules "distorts the local television market to the detriment of the viewing public, especially those who do not subscribe to cable."[18] In 2005, the Commission declined to support cable companies' call to modify the exclusivity rules, reasoning that "the legislative history of the 1992 Act indicates that the network non-duplication and syndicated exclusivity

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[16] House Committee on Energy and Commerce, H.R. Conf. Rep. No. 102-862 ("Conference Report"), 102d Cong., 2d Sess. (1992), reprinted at 138 Cong. Rec. H8308 (Sept. 14, 1992).

[17] Cable Television Consumer Protection and Competition Act of 1992, S. Rep. No. 92, 102d Cong., 1st Sess. 1 (1991).

[18] 1988 Exclusivity Order at ¶ 74.

rules were viewed as integral to achieving congressional objectives."[19] In more than three years of comments in this proceeding, proponents of repeal have yet to provide evidence that the Commission's conclusion no longer holds true.

Repealing the exclusivity rules would harm local advertisers by impairing their ability to reach local viewers, since viewers who watch a distant signal are completely lost to the local car dealer or retail outlet. In turn, viewers receiving remote television stations would not receive information pertinent to businesses in their local communities. Quite simply, such a change would harm the entire community. Moreover, distant signals would not provide local information to viewers. A New York television station will not inform Cleveland viewers about what is happening in their communities. In other words, repealing the exclusivity rules would not only hinder local stations' ability to produce local information; it also would reduce the opportunities for individuals to *receive* the information.

III. THE EXCLUSIVITY RULES ARE INTERTWINED WITH COPYRIGHT LAW AND MUST NOT BE CHANGED IN ISOLATION

The Commission's exclusivity rules are one component of a much larger system of statutes, regulations, and contracts that enable MVPDs to retransmit local broadcasters' signals.

Federal copyright law provides MVPDs with a significant negotiating advantage in retransmission consent deals. MVPDs have been granted compulsory copyright licenses for programming contained in broadcast television signals.[20] The compulsory copyright system distorts the market and skews retransmission consent negotiations in favor of MVPDs. The

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[19] FCC, *Retransmission Consent and Exclusivity Rules: Report to Congress Pursuant to Section 208 of the Satellite Home Viewer Extension and Reauthorization Act of 2004* ¶ 50 (Sept. 8, 2005) ("2005 Report").

[20] 17 U.S.C. §§ 111, 119, and 122.

Commission's exclusivity rules partially correct for this distortion by enabling broadcasters to enforce the exclusivity rights they have bargained for -- rights that would otherwise be undermined by the compulsory copyright regime.

When the Commission reinstated the exclusivity rules in 1988, it partly based its decision on the fact that fees paid by cable companies pursuant to the distant signal compulsory licenses have absolutely no relationship to the value of the imported programming. The Commission analyzed the actual market effects and correctly concluded that "distant stations will be carried as long as their value to the cable operator exceeds the compulsory license fee, even if the value of these distant signals to viewers is less than the value of the alternative programs that cablecasters would carry if broadcasters could exercise exclusive rights, so that cable operators would have to negotiate to obtain the right to show duplicative programming."[21] The Commission thus found that the exclusivity rules are necessary because of compulsory copyright licenses. Unless Congress significantly modifies or eliminates the compulsory licensing requirement, there is no basis for the Commission to consider repealing or modifying the exclusivity rules. Indeed, doing so would be contrary to the congressionally mandated retransmission consent framework and the public interest.

The Commission has long held the view that laws and regulations regarding retransmission consent and program exclusivity are intertwined with the compulsory copyright system, and that one element cannot be modified without examining and recalibrating all of the interconnected rules and laws. In 2005, the Commission concluded that the exclusivity rules "do not operate in a vacuum" and are "part of a mosaic of other regulatory and statutory provisions (*e.g.*, territorial exclusivity, copyright compulsory licensing, and mandatory carriage) to

[21] 1988 Exclusivity Order at ¶ 69.

implement key policy goals."[22] The National Cable & Telecommunications Association agreed, stating that "the compulsory license has been and continues to be inextricably intertwined with a broad array of communications laws and policies regarding cable's carriage of television broadcast stations."[23] Similarly, rural MVPDs have stated that carriage of broadcast signals "occurs within a complex web of interrelated regulations," including compulsory copyright, retransmission consent, and the exclusivity rules.[24] And the Copyright Office stated that compulsory copyright licenses are "intertwined with equally complex provisions of communications law and policy[.]"[25]

Thus, for over twenty-five years there has been widespread agreement by Congress, the Commission, and the full range of industry stakeholders that the exclusivity rules and compulsory copyright licenses are necessarily interlinked and must be examined together -- those rules cannot be modified alone in a vacuum. It therefore would be inappropriate and contrary to the intent of Congress for the Commission to modify the network non-duplication and/or syndicated exclusivity rules -- only Congress has the power to address all of the interrelated aspects of the broadcast carriage framework and, therefore, any decision to alter the fundamental exclusivity rights that are a part of that framework must rest with Congress.

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[22] 2005 Report ¶ 33.

[23] Comments of NCTA before the Copyright Office, Docket No. RM 2010-10 (Section 302 Report to Congress), at 2 (April 25, 2011).

[24] Comments of the Rural MVPD Group before the Library of Congress Copyright Office, Docket No. RM 2010-10 (Section 302 Report to Congress), at 2 (April 25, 2011).

[25] U.S. Copyright Office, Satellite Television Extension and Localism Act Section 302 Report (Aug. 29, 2011), *available at* http://www.copyright.gov/reports/section302-report.pdf.

IV. THE EXCLUSIVITY RULES PROMOTE COMPETITION

The Commission seeks comment on "how application of antitrust principles might impact exclusivity agreements."[26] As the Commission considers this question, it should first consult its own line of cases in which the Commission has examined exclusive agreements and found them in appropriate circumstances to be in the public interest. We think an examination of the facts around the exclusivity rules will lead this Commission, as it has led past Commissions, to find them in the public interest because they promote competition and investment in programming.

Time Warner Cable's assertion, cited by the Commission in the FNPRM,[27] that exclusivity agreements are "unreasonable restraints on trade"[28] is entirely unsupported by Commission precedent or the factual record. To the contrary, exclusivity agreements and the Commission's exclusivity rules *promote* competition and the distribution of high-quality television programming. The Commission has recognized, in this and other contexts, that exclusive programming arrangements can be pro-competitive and in the public interest. For example, in 2012, the Commission declined to extend the exclusive contract prohibition section of program access rules, which banned exclusive contracts for satellite cable programming or satellite broadcast programming between cable operators and cable-affiliated programming vendors in areas served by a cable operator. As the Commission noted in that proceeding, "Congress specifically recognized the benefits of exclusive contracts in some cases, as demonstrated by its mandate that the Commission allow the exclusive contract prohibition to

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[26] FNPRM ¶ 67.

[27] FNPRM ¶ 28.

[28] Reply Comments of Time Warner Cable Inc., MB Docket No. 10-71 (June 27, 2011). Time Warner, the nation's second largest cable company, made this bold assertion of antitrust violations less than three years before it agreed to merge with the nation's largest cable company.

expire when it is no longer 'necessary' to preserve and protect competition and diversity in the video distribution market."[29]

Exclusive arrangements are a common market feature in America,[30] and the ability to protect exclusive programming rights is a critical component of our media marketplace. Cable programmers such as HBO do not face compulsory copyright licenses and thus, enjoy complete and exclusive control over the distribution of their channels nationwide. They vigorously exercise and defend their exclusive control. Viewed against this commonplace practice of cable channels exercising exclusive control, [31] it becomes even more apparent that the network nonduplication and syndicated exclusivity rules are necessary to restore a means whereby local television stations can enforce exclusivity rights afforded by contract for distribution of network and syndicated programming. Exclusivity rights are enjoyed by every

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[29] Report and Order in MB Docket Nos. 12-68, 07-18, 05-192, Further Notice of Proposed Rulemaking in MB Docket No. 12-68, Order on Reconsideration in MB Docket No. 07-29 (Oct., 5, 2012) at ¶ 37 (citing S. Rep. No. 102-92 (1991), at 28, reprinted in 1992 U.S.C.C.A.N. 1133, 1161 ("The Committee believes that exclusivity can be a legitimate business strategy where there is effective competition."). The Commission concluded that adopting a case-by-case examination, rather than an absolute ban on exclusivity, "will allow us to consider the potentially procompetitive benefits of exclusive contracts in individual cases, such as promoting investment in new programming, particularly local programming, and permitting MVPDs to differentiate their service offerings." *Id.* at ¶ 2.

[30] Franchises that create exclusive business arrangements are commonplace, and include car dealers, fast food chains, beer distributors, and many others. It is generally accepted that these franchise arrangements are not restraints on trade. *See* Francine Lafontaine and Margaret Slade, *Exclusive Contracts and Vertical Restraints: Empirical Evidence and Public Policy*¸ HANDBOOK OF ANTITRUST ECONOMICS (2008). ("[I]t appears that when manufacturers choose to impose such restraints, not only do they make themselves better off, but they also typically allow consumers to benefit from higher quality products and better service provision."); Tim. R. Sass and David R. Saurman, *Mandated Exclusive Territories and Economic Efficiency: An Empirical Analysis of the Malt Beverage Industry*, JOURNAL OF LAW AND ECONOMICS 36:153-177 (1993).

[31] For example, the Commission has stated that DIRECTV's exclusive offering of the NFL Sunday Ticket helps the satellite provider "differentiate its service." *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, ¶ 94 MB Docket No. 12-203 (July 22, 2013).

other channel carried by MVPDs and otherwise are rendered unenforceable by the compulsory copyright licenses that apply with respect to broadcast programming alone.[32]

The exclusivity rights afforded to broadcasters in network affiliation and syndicated programming agreements -- and the Commission's exclusivity rules that preserve their meaning -- enable local broadcasters to fund high quality, expensive national programming, such as the NFL, the Olympics, America's Got Talent, and Dateline, and make it available to the public on a free over-the-air basis. Eliminating broadcasters' ability to enforce this exclusivity would undermine the financial health of local television stations and thus their ability to financially support high quality programming, resulting in the placement of this high-value programming behind a paywall.[33] Such a change would not promote competition or benefit consumers; it would benefit only pay-TV providers that seek to weaken their broadcast competitors.

Both Congress and the Commission have recognized that migration of such programming from local broadcast television to pay television would harm consumers. As the House Committee on Energy and Commerce stated in connection with the 1992 Cable Act, "[a] significant reduction in the quality or quantity of sports programming available on free television, whether professional or collegiate, would be of great concern."[34] And the

[32] The NBC Affiliates support the local compulsory licenses when coupled with retransmission consent rights, as they support localism.

[33] Similarly, the loss of control over content distribution also could push migration to pay services for programmers who want to have control over their distribution.

[34] H.R. Rep. No. 102-628, at 126 (June 29, 1992).

Commission stated that "broad and economical access to a variety of sports programming is instrumental to the Commission's goal of ensuring the availability of diverse programming."[35]

V. THE EXCLUSIVITY RULES ARE NECESSARY TO ENFORCE AGREEMENTS BETWEEN BROADCASTERS AND PROGRAMMERS

The FNPRM is mistaken to the extent that it suggests broadcasters can protect their exclusivity through other means, either by contract or by litigation. Elimination of the exclusivity rules would upend the current system of privately-negotiated exclusivity rights, rendering these provisions toothless and allowing cable and satellite companies to routinely flout these provisions.[36]

The Commission's exclusivity rules do not create new rights for stations. Rather, the exclusivity rules are necessary because MVPDs are not parties to the agreements between programmers and broadcasters, and therefore are not bound by the agreements' exclusivity provisions.[37] Moreover, MVPDs' reliance on the distant signal compulsory copyright licenses to retransmit broadcast television signals -- a license the MVPDs have consistently defended -- deprives program suppliers of a direct means of enforcing the exclusivity provisions that they include in their network affiliation and syndicated programming agreements. Accordingly, the Commission's exclusivity rules are necessary to prevent MVPDs from using the distant signal compulsory copyright licenses to do an end-run around local broadcasters' privately-negotiated exclusivity rights.

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[35] Final Report, *Implementation of Section 26 of the Cable Television Consumer Protection and Competition Act of 1992, Inquiry Into Sports Programming Migration*, 9 FCC Rcd. 3440, at para. 180 (June 30, 1994).

[36] Indeed, exclusivity rights included in network affiliation and syndicated programming agreements are based upon the exclusivity rules. Elimination of those rules would render those provisions meaningless.

[37] *NLRB v. Burns Int'l Sec. Servs.*, 406 U.S. 272, 285 (1972) ("under normal contract principles a party would not be bound to a contract in the absence of consent.").

Without the Commission's exclusivity rules, neither the local stations that negotiated for exclusivity nor the networks or other program suppliers who provided it have a means to prevent MVPDs from importing distant signals, rendering these exclusivity rights meaningless and undercutting a fundamental economic element for free, over-the-air broadcasting. The broadcaster would have no private right of action against the MVPD because the MVPD owes no duty to the local broadcaster to protect the exclusive franchise it bargained for. "By requiring MVPDs to black out duplicative programming carried on any distant signals they may import into a local market, the Commission's network non-duplication and syndicated exclusivity rules provide a regulatory means for broadcasters to prevent MVPDs from undermining their contractually negotiated exclusivity rights."[38]

Some may suggest that, in theory, the broadcaster could bargain for exclusivity with the MVPD, but that is an empty promise because it is built on the faulty premise that MVPDs would agree in a retransmission consent negotiation to give up the substantial advantage they have due to the distant signal compulsory copyright licenses -- the same licenses that (absent the exclusivity rules) would create an unfair advantage in that very negotiation. Moreover, exclusivity is an essential basis for network affiliation, and a station, having negotiated and paid for those rights, should not be required to negotiate a second time with every party that would seek to violate those rights simply to ensure those rights are respected. Further, a station's ability to enforce its exclusivity rights was never intended to be -- and never has been -- contingent on negotiating a retransmission consent agreement.

Make no mistake: MVPDs have demonstrated that they will exploit every possible opportunity to import distant signals. For instance, Time Warner Cable ("TWC") took

[38] 2005 Report at ¶ 18.

advantage of an ambiguity in its retransmission consent agreement with a broadcast station owner, and imported the signals of the stations into distant markets where the local network affiliates inadvertently had failed to perfect their network nonduplication rights. Because TWC's actions were clearly contrary both to the intent of the retransmission consent agreement and to the geographic scope of retransmission consent rights imposed by the networks with which the stations were affiliated, the station owner filed a breach of contract and copyright infringement suit against TWC. Rather than agree to stop importing the broadcaster's signals to distant markets, TWC relied on a loophole in the agreement and fought the broadcaster in both the district court and appellate court.[39] Although the agreement only explicitly provided for retransmission in the local market, TWC argued in its court briefs that the agreement provided for the broadcaster's consent to the retransmission of its stations "over each cable system owned by TWC -- all around the country, unlimited by any geographic restriction."[40] This expansive interpretation of a relatively standard retransmission consent agreement demonstrates that MVPDs will take advantage of every possible avenue for importing distant signals and skewing the local retransmission consent market. The Fifth Circuit's decision to rule in favor of TWC demonstrates that courts are not an effective means to enforce exclusivity rights. The only direct means to preserve exclusivity in such circumstances would be enforcing network nonduplication rights.

The Fifth Circuit's opinion also demonstrates why the compulsory copyright regime and retransmission consent rules are intertwined and cannot be modified in isolation.

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[39] Nexstar Broad., Inc. v. Time Warner Cable, Inc., 524 Fed. Appx. 977 (5th Cir. 2013) (unpublished).

[40] Response and Memorandum of Defendant Time Warner Cable Inc. in Opposition to Nexstar Broadcasting, Inc.'s Motion for a Temporary Restraining Order and Preliminary Injunction, Case. No. 3-12CV-2380P (N.D. Tex. July 26, 2012).

The Court rejected the broadcaster's copyright infringement claim, concluding that because TWC did not violate the retransmission consent agreement, the compulsory copyright provision applied. The Court did not even address the fact that the networks had not provided the broadcaster with the right to grant retransmission consent outside the local market. Because TWC relied on the compulsory license, both the local affiliates whose exclusivity was violated by the imported distant signals and the networks whose programming was transmitted without their authorization were left with absolutely no recourse to enforce their own geographic exclusivity arrangements.

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In sum, elimination of the exclusivity rules would undermine the broadcast localism that has served communities across the United States for decades. Repealing the rules would fragment audiences and make it more difficult for broadcasters to invest in local television news, public affairs, and high-quality national programming that is available to the entire public for free, and over the air. The only beneficiaries of repeal would be cable and satellite companies, which would use this new leverage to put more programming behind a paywall, weaken their broadcast competitors, and force consumers to pay for programming that had once been available for free.

Respectfully submitted,

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