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January 9, 2007

Matthew M. Polka  
President and CEO  
American Cable Association  
One Parkway Center, Suite 212  
Pittsburgh, PA 15220

Dear Matt,

I recently came across a January 3 American Cable Association (ACA) press release related to retransmission consent that contained inaccuracies and exaggerations.

Reasonable people would agree that broadcast programming offered by local TV stations and their network partners provides the backbone of every programming package sold by cable. That is why in 1992, Congress wisely corrected an imbalance in video program delivery that had permitted cable operators to take advantage of a local TV station signal, profit from its highly valued programming, without even providing stations the opportunity to negotiate for something in return.

By ACA's own admission, "An essential component of cable service is the retransmission of broadcast television station signals. Retransmission brings networks such as ABC, CBS, Fox and NBC to small-town and rural viewers; it also delivers local programming (such as newscasts) created at the station." Those words -- printed on page one of a January 2006 ACA study on retransmission consent -- demonstrate convincingly the value of broadcast signals.

The Federal Communications Commission (FCC) is in agreement. In its most recent review of the current state of retransmission consent, the Commission reported: "Our review of the record does not lead us to recommend any changes to the retransmission consent regime at this time." Further, the FCC noted that "as a general rule, the local television broadcaster and the MVPD (multichannel video program distributor) negotiate in the context of a level playing field in which the failure to resolve local broadcast carriage disputes through the retransmission consent process potentially is detrimental to each side."

This finding is consistent with Congress's intent that retransmission consent negotiations "establish a marketplace for the disposition of the rights to retransmit broadcast signals," but that government not "dictate the outcome." It is clear from your statement that ACA is dissatisfied with the marketplace and is now asking government to pick a side - the cable side.

Recall that when a station opts for retransmission consent instead of must carry, it gives up its right to assured carriage and channel position. The broadcaster comes to the negotiating table assured of nothing, as does the cable operator. It strains credibility to characterize this carefully balanced, reasonable negotiating process as "unfair to cable."

Just last week, the FCC reiterated its earlier findings, rejecting a cable operator's assertion that the broadcaster in question was negotiating in bad faith. Noting that the higher-watched broadcaster was actually asking for less compensation than that paid by the cable MSO for lightly-viewed cable networks, the FCC confirmed the broadcaster "did not breach its obligation to negotiate retransmission consent in good faith."

Even ACA would concede that local broadcasters provide the highest-rated, most compelling content offered to cable customers. In an era of fragmented audiences and exploding television choice, cable subscribers still devote about half their viewing time to programming offered by broadcasters. Indeed, during the 2005-2006 TV season, the 235 top-rated programs on ad-supported television were shows offered by broadcast networks.

Broadcasters collectively spend billions each year obtaining and producing the most-watched news, entertainment and sports programming. Programs like "24," "Lost," "The Office," "CSI" and The Super Bowl are extraordinarily expensive. Unfortunately, while local stations deliver this programming in digital high definition - the most pristine picture quality - cable operators routinely degrade that signal into a standard definition digital or analog picture.

Moreover, cable's refusal to compensate broadcasters for our high-value programming stands in stark contrast to your competitors. Satellite television providers DirecTV and DISH Network, two companies that routinely score high in customer service and satisfaction surveys, routinely pay modest compensation to broadcasters. The same is true for a number of telephone companies now offering broadcast stations as part of their video programming services. These MVPDs' compensation to broadcasters has not proved an excessive burden. Indeed, both DirecTV and DISH Network continue to add millions of customers each year while the fledgling telco services continue to grow.

For the last 15 years, the evidence demonstrates convincingly that retransmission consent has succeeded as Congress intended. Given that ACA already acknowledged that local TV signals are "an essential component" of cable, it would be worth considering the number of subscribers who would switch to satellite if they did not receive local broadcast channels as part of their cable package.

Regards,

A handwritten signature in blue ink that reads "David K. Rehr". The signature is written in a cursive, flowing style.

David K. Rehr