



March 13, 2014

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

Re: *Ex Parte* Communication in MB Docket Nos. 09-182, 10-71

Dear Ms. Dortch:

On March 12, 2014, Gordon Smith and Rick Kaplan of the National Association of Broadcasters ("NAB") met with Commissioner Mignon Clyburn. Our conversation focused on the items currently circulating at the Federal Communications Commission ("FCC" or "Commission") concerning television broadcasters' use of Joint Sales Agreements ("JSA") and retransmission consent negotiations.

Specifically, NAB identified at least three major problems with the Chairman's proposed order developing a bright-line rule attributing JSAs for ownership purposes and limiting the ability of broadcasters to negotiate jointly for retransmission consent:

- The Commission has completely failed to study the impact on localism and diversity of the Chairman's proposed attribution rule. According to reports, it merely makes sweeping generalizations and is thus arbitrary and capricious in its determination that *all* JSAs harm diversity and localism. In contrast, the record is replete with examples of JSAs and other service agreements among stations that demonstrate that they, in fact, greatly *foster* localism and diversity.
- The Chairman is proposing to use a sledgehammer where a scalpel, if anything, is far more appropriate. The draft order is designed to address certain purported bad actors whose JSAs decrease localism and diversity. JSAs that decrease localism and diversity can more readily be addressed on a case-by-case basis or with clearly defined rules that prohibit specific behaviors that contravene the Communications Act. The current approach instead punishes an entire industry and many of the communities that local broadcasters serve.

1771 N Street NW
Washington DC 20036 2800
Phone 202 429 5300

Marlene H. Dortch, Esq.

March 13, 2014

Page 2

- It is manifestly unfair for the Commission to prohibit broadcasters from engaging in joint advertising or retransmission consent negotiations when, at the same time, it permits the cable industry to do so. NAB believes strongly that the same rules should apply to broadcasters as to cable companies. The Commission should not pick winners and losers in the advertising, or any, market.

Finally, NAB discussed its disappointment that the Commission was not doing everything it could to actually promote localism and diversity. The draft order will only harm those two essential values enshrined in the Communications Act. If the Commission is serious about promoting localism and diversity, it should work with the broadcasting industry to find the most effective ways to do so. The current course betrays those values and hinders broadcasters from providing the unique local and diverse content no other industry delivers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal line extending to the right.

Rick Kaplan
Executive Vice President, Strategic Planning
National Association of Broadcasters

cc: Commissioner Clyburn
Adonis Hoffman