March 24, 2014

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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

Dear Ms. Dortch:

Since its establishment by Congress in 1992, the retransmission consent regime has proven to be an economically efficient and effective vehicle that allows broadcasters and multichannel video programming distributors (MVPDs) to negotiate the terms under which MVPDs deliver broadcast signals to their subscribers. The process has benefited consumers, MVPDs, and broadcasters by making valued and costly programming, including local news, weather, emergency information and sports, available to viewers in diverse markets throughout the country.[1]

In light of these realities, the National Association of Broadcasters (NAB) once again refutes the nonsensical idea that consumers, rather than MVPDs, will benefit from changes to the retransmission consent rules supported by the pay television industry. In particular, we explain again why retransmission consent fees generally, and joint negotiation of retransmission consent agreements specifically, do not drive increases in MVPDs' consumer subscription rates. We also urge the Commission to examine other factors that more likely contribute significantly to consumers' costs, including increasing local and regional concentration in the MVPD segment of the video marketplace.

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[1] *See, e.g.*, Decl. of Jeffrey A. Eisenach and Kevin W. Caves, at 2, 11, 32, Attachment A to NAB Comments, MB Docket No. 10-71 (May 27, 2011) (Declaration).

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I. The Many Changes to the Retransmission Consent System Proposed by MVPDs Will Not Result in Cost Savings For Consumers

As an initial matter, we observe the irony of pay TV providers posing as protectors of consumer welfare. MVPDs continue to cloak their proposals for change to the system of retransmission consent in consumer-friendly language, suggesting that "reform" is needed to avoid "public interest" harms.[2] In fact, the proposals they have advanced in the record in this proceeding are not designed to promote any interests other than their own.

Even if restrictions hindering broadcasters' ability to fairly negotiate retransmission consent with MVPDs are adopted, there is no reason for the Commission or consumers to expect that there would be any change in MVPD subscription rates. Today, with increasingly rare exceptions, MVPD retail rates are not regulated by the Commission or by local authorities.[3] Adopting changes to retransmission consent that enhance MVPD bargaining power may well allow MVPDs to reduce the fees they pay for broadcast signals, but there would be no assurance that any such savings would be passed on to consumers in the absence of some binding requirement to do so. Needless to say, no MVPD supports the reinstitution of consumer rate regulation.

Any claimed public interest justification for examining retransmission consent payments simply does not exist. Because, as NAB has previously shown[4] and as discussed below, a much larger portion of MVPD programming costs are the payments they make to cable networks, those payments potentially have much greater impact on consumer rates than the proportionally much smaller retransmission consent payments to local broadcasters. The Commission could not and should not contemplate regulation of payments to local broadcasters alone in the name of consumer welfare. Doing so would not only be asymmetric and unfair, but would harm

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[2] *See, e.g.*, Notice of *Ex Parte* Communication by American Cable Association, Charter Communications, DIRECTV, DISH Network, and Time Warner Cable, MB Docket No. 10-71 (Mar. 12, 2014) at 1 (claiming that joint negotiation of retransmission consent by two broadcast stations is "harmful to consumers"); *Ex Parte* Letter from Seth Davidson, Counsel for Mediacom Communications Corp., MB Docket No. 10-71 (Mar. 6, 2014) at 1 (calling for numerous changes to retransmission consent system to "provide meaningful relief for consumers who are being harmed" under the current regime); Notice of *Ex Parte* Communication by American Cable Association, Charter Communications, DIRECTV, DISH Network, New America Foundation, and Time Warner Cable, MB Docket Nos. 10-71, 09-182 (Jan. 30, 2014) (calling for FCC action to "reform the retransmission consent process to protect consumers").

[3] *See* NAB Supplemental Comments, MB Docket No. 10-71 (May 29, 2013) (NAB Supplemental Comments) at 5.

[4] *See, e.g.,* NAB Supplemental Comments at 4-5.

the public interest. As empirical evidence in the record shows, such regulation would "significantly reduce investment returns in the broadcasting industry" and "reduce local news programming."[5] It would also encourage the movement of costly programming away from universally-available over-the-air services, exactly the result Congress sought to avoid when it enacted retransmission consent.[6]

In actuality, the pay TV industry is seeking government intervention to reduce the wholesale rates they pay to retransmit stations' local signals, which contain the most popular programming on MVPD systems, so that they can glean more profit from the retail rates they charge consumers. The Commission should decline to intervene in the marketplace to aid the pay TV industry.

II. Year-Over-Year Cable Rate Increases Are Not Caused by Retransmission Consent Compensation

Contrary to the claims of the cable industry, rising cable rates cannot be excused by blaming broadcasters' retransmission consent compensation. As NAB has explained in other filings and herein, cable's long history of increasing subscriber fees well beyond the rate of inflation pre-dates by many years the emergence of cash compensation for operators' retransmission of broadcast signals.[7] It is undisputed that for years cable operators consistently refused to pay cash for retransmission consent of local broadcast signals.[8] Nevertheless, the average monthly rate subscribers were charged for the combined basic and expanded-basic tiers of service between 1997 and 2002 rose by 40 percent in just a five-year period.[9] Because cable operators did

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[5] J.A. Eisenach and K.W. Caves, *The Effects of Regulation on Economies of Scale and Scope in TV Broadcasting* (June 2011) at 3-4 (Economies of Scale Report), Attachment A to Reply Decl. of J.A. Eisenach and C.W. Caves (June 27, 2011) (Reply Decl.) in NAB Reply Comments, MB Docket No. 10-71, at Appendix A (June 27, 2011). *See* Reply Decl. at 9 (retransmission consent compensation increases broadcasters' "output of news and other local content").

[6] Many have noted the movement of increasingly expensive sports programming away from free, over-the-air television to pay TV platforms. For example, for the first time in history, none of the Los Angeles Dodgers' "games will be available on free, over-the-air television," forcing fans "to subscribe to a pay-TV service if they want to watch the Dodgers." Joe Flint, *Fans may strike out in battle over Dodgers' new TV home*, Los Angeles Times (Feb. 18, 2014). Also for the first time in history, this year's NCAA Final Four national semifinal men's basketball games will be televised on pay TV.

[7] *See, e.g.*, NAB Supplemental Comments at 18-19 & n. 50; Declaration at 11.

[8] FCC, *Retransmission Consent and Exclusivity Rules: Report to Congress Pursuant to Section 208 of the Satellite Home Viewer Extension and Reauthorization Act of 2004* (Sept. 8, 2005) at 7 (as of 2005, cash still had "not emerged as a principal form of consideration for retransmission consent").

[9] *See* NAB Comments, MB Docket No. 10-71 (May 27, 2011) (NAB Retransmission Consent Comments) at 42.

not pay retransmission consent fees during this time period, it is clear that such increases in cable subscriptions rates were unrelated to retransmission consent.

Indeed, rising cable rates can be found over any time period regardless of any particular trends relating to retransmission consent. According to the FCC's most recent report on cable prices, the average price of expanded basic service grew at a compound annual rate of 6.1 percent over the 17-year period from 1995-2012, compared to a 2.4 percent annual increase in general inflation as measured by the Consumer Price Index over the same period.[10]

Even today, when a number of broadcasters have succeeded in negotiating monetary compensation for retransmission consent, their compensation remains modest in comparison to the programming fees paid to cable programmers, whose programming receives fewer viewers.[11] According to Wells Fargo analyst Marci Ryvicker, "[b]roadcast captures 35% of the audience, [but] gets 7% of programming fees."[12] Even assuming that MVPDs' programming costs are partly responsible for the continual subscription rate increases for consumers,[13] cable programming appears to be the real culprit, not broadcast programming.[14] Consequently, FCC intervention in the retransmission consent negotiation process with the intent of reducing pay TV providers' programming costs would be ineffective unless the Commission also determines to regulate the costs of non-broadcast programming.[15] And, as discussed above, there would be no assurance that any savings in programming costs would be

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[10] Report on Cable Industry Prices, DA 13-1319 (MB June 7, 2013) at ¶ 16.

[11] *See, e.g.*, NAB Retransmission Consent Comments at 43-44.

[12] Diana Marszalek, *Ryvicker: Stations Losing $10.4B In Retrans*, TVNewsCheck (Sept. 18, 2013).

[13] NAB notes that substantial research in the record found that "empirical evidence does not support the position that programming costs in general" (let alone retransmission consent fees which are only a fraction of MVPDs' programming expenses) have played "a significant role in increasing the prices that MVPDs charge to consumers." Declaration at 2 (explaining that programming costs were "decreasing relative to the costs, revenues, and profits of MVPDs"). *See also* NAB Retransmission Consent Comments at 41-47 (discussing several studies showing that programming costs generally – and retransmission consent fees specifically – were not the cause of rising MVPD prices). The Commission must consider this empirical evidence before simply assuming that programming costs overall are the main driver of either MVPD costs or increasing consumer prices.

[14] Recent reports discuss the costs of cable sports programming in particular. Various reports indicates that Time Warner is asking pay TV distributors to pay between $4-$5 per subscriber per month for SportsNet LA—and this price is expected to rise significantly over time. *Bill for the Dodgers is about ready to come due*, Washington Post (Mar. 11, 2014). *See also* Flint, *Fans may strike out*, n. 6, *supra*.

[15] *See, e.g.*, Declaration, at 11-24 ("data simply do not support the claim that increases in MVPD prices are caused" by retransmission consent fees, as these fees represent a small fraction of MVPD costs, revenues and profits).

passed on to consumers unless the Commission also regulated the retail prices charged by MVPDs.

An examination of cable revenue similarly shows that broadcast retransmission fees are highly unlikely to be a major driver of consumer subscription fees. An earlier estimate by Multichannel News found that only *two cents* of every dollar of cable revenue go to broadcast retransmission consent fees, while *20 cents* of every dollar go to cable programming fees.[16] More recent SNL Kagan data show that retransmission consent fees are equivalent to only 2.7 percent of the cable industry's *video-only* revenues (and would be a considerably smaller percentage of total revenues.).[17]

In sum, the record does not establish that consumers will benefit from increased regulation of retransmission consent negotiations – let alone increased regulation applicable only to one side of these negotiations. It therefore would be arbitrary and capricious for the Commission to adopt new restrictions applicable only to local broadcast stations based on this unsupported rationale of reducing costs to pay TV providers in order to benefit consumers.[18] Certainly, the mere fact that retransmission consent fees have increased from an initial level of zero does not mean that they are now somehow "too high" from the perspective of economic efficiency, or the driver of the rising rates paid by consumers for MVPD services.[19]

If the Commission wanted to effectively address rising consumer prices for pay TV service, it would look seriously at MVPD concentration at the local, regional and national levels. As NAB has discussed in detail in other proceedings, the MVPD industry is highly concentrated at the national level,[20] and cable multiple system

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[16] *Where Your Cable Dollar Goes*, Multichannel News (Mar. 28, 2011) at 10-11.

[17] NAB Supplemental Comments at 4-5, citing © 2013 SNL Kagan, a division of SNL Financial LC, estimates.

[18] *See, e.g.*, *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co*., 463 U.S. 29, 43 (1983) (an agency "must examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made'") (internal citations omitted); *Bechtel v. FCC*, 10 F.3d 875, 880-81 (D.C. Cir. 1993) (court found FCC policy to be arbitrary and capricious because FCC had no evidence that it accomplished the agency's purposes); *American Radio League, Inc. v. FCC*, 524 F.3d 227, 241 (D.C. Cir. 2008) (FCC faulted for unreasonably dismissing information in the record); *Achernar Broadcasting Co. v. FCC*, 62 F.3d 1441, 1447 (D.C. Cir. 1995) (court found FCC acted arbitrarily and capriciously by failing to consider all aspects of a problem).

[19] Declaration at 1-2 (by MVPDs' logic, one could argue that consumers also are harmed by the prices MVPDs pay for capital equipment, labor and electricity).

[20] NAB Comments in MB Docket No. 14-16 (Mar. 21, 2014) at 14 (NAB Video Competition Comments). We hereby incorporate these comments into the above-captioned proceedings by reference. In 2002, the ten largest MVPDs controlled 67.4 percent of the MVPD market nationally (measured in terms of

operators (MSOs) have increased their market shares through clustering. Clustering reduces the number of individual systems in each local market, thereby increasing the clustered MSOs' ability to compete with local television stations for local advertising revenues and the MSOs' relative bargaining power against local television stations in retransmission consent negotiations.[21] Information on regional concentration and clustering among MVPDs is relevant to a variety of competitive and marketplace analyses; specifically, the Commission should explore whether the cable industry's regional and local consolidation contributes to its consistent practice of raising consumer subscriber rates well above the rate of inflation.[22]

Currently we note that the Commission no longer even examines regional clustering as part of its annual report on competition, despite the substantial number of local markets dominated by a single MVPD. For example, Time Warner Cable, Inc. (TWC) enjoys a 60 percent or greater share of the *entire* MVPD market in nine DMAs, including Honolulu, HI (90.2 percent) and Rochester, NY (76.2 percent).[23] Numerous other cable MSOs have dominant positions in markets across the country, as shown in the chart below. Given these levels of consolidation in local markets, it is ludicrous to claim that joint negotiation of retransmission consent by two stations gives them undue leverage against pay TV providers.

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subscribers); today, the top ten MVPDs control 91.7 percent of the nationwide market. The four largest MVPDs alone currently serve 67.7 percent of MVPD subscribers nationally, increasing from only 51.5 percent in 2002.

[21] *See* NAB Supplemental Comments at 11; Declaration at 5-7 (concluding that broadcasters' bargaining power relative to MVPDs has likely decreased due to cable clustering, a reduction in the share of viewers watching television over the air, and the increase in the availability and audience shares of non-broadcast programming).

[22] NAB Video Competition Comments at 15-16.

[23] *Id.*, citing *2013 SNL Kagan MediaCensus, Estimates—3rd Quarter 2013*.

Examples of MVPD Market Dominance

MVPD	Market	Share of Market
Time Warner	Honolulu	90.2%
Time Warner	Rochester, NY	76.2%
Time Warner	Albany, NY	68.5%
Time Warner	Syracuse, NY	67.7%
CableOne	Biloxi, MS	64.1%
Suddenlink	Victoria, TX	61.6%
Suddenlink	Parkersburg, WV	56.0%
Bright House	Tampa, FL	55.6%
Bright House	Orlando, FL	55.2%
Charter	Cheyenne, WY	58.5%
Charter	Grand Junction, CO	54.9%
Charter	Alpena, MI	54.9%
Charter	Casper, WY	54.1%
Charter	Marquette, MI	54.1%
Charter	Helena, MT	53.0%

Source: *2013 SNL Kagan MediaCensus, Estimates—3rd Quarter 2013*

In all, NAB counts 57 DMAs in which a single cable operator enjoys a share of 50 percent or more of the MVPD market as a whole, even taking direct broadcast satellite and other MVPD subscribers into account.[24] Perhaps, then, to truly promote consumer welfare, the Commission should focus on MVPD consolidation in local and regional markets, where many cable operators continue to enjoy a dominant position.[25]

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[24] *Id*.

[25] *See, e.g.*, *Time Warner Cable Inc. v. FCC*, 729 F.3d 137, 161-63 (2d Cir. 2013) (court observed that "cable operators continue to hold more than 55% of the national MVPD market and to enjoy still higher shares in a number of local MVPD markets," and found that it could not "overlook record evidence that cable operators maintain a more than 60% market share" in some markets).

III. MVPDs and Other Interested Parties Have Relied on Erroneous Facts and Data Regarding the Effect of Joint Negotiations on Retransmission Consent Fees

Cable comments and *ex parte* notices frequently reiterate the claims that negotiations by broadcasters for more than one television station in a market result in dramatically higher retransmission consent payments. As the NAB has explained in numerous other filings, these broad assertions are misleading.[26] The American Cable Association (ACA) and other interested parties have pointed to just four cable operator *ex parte* filings to assert that joint negotiations result in much higher retransmission consent fees.[27] This is a grossly insufficient data set on which to base a conclusion about the entire retransmission consent process.[28]

Even more troubling is that after NAB made clear that these cable operator *ex parte* filings were erroneous because they included stations carried pursuant to must carry (which of course are carried without any compensation),[29] MVPDs continued to cite this outrageously exaggerated data in comments to the Commission when comparing the retransmission consent fees obtained through jointly negotiated and individually negotiated retransmission consent agreements.[30]

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[26] *See, e.g.*, NAB Supplemental Comments at § I; Reply Comments of the Broadcaster Associations, MB Docket No. 10-71 (June 3, 2010) at § III.

[27] *See* Rogerson, *Joint Control or Ownership of Multiple Big 4 Broadcasters in the Same Market and Its Effect on Retransmission Consent Fees* (May 18, 2010), Appendix B to the Comments of ACA, MB Docket No. 10-71 (May 18, 2010) (admitting that he is aware of "only one data point" supporting the conclusion that joint negotiations of retransmission consent agreements lead to price increases of at least 22%) (citing Suddenlink Communications, "*Ex Parte* Comments of Suddenlink Communications in Support of Mediacom Communications Corporation's Retransmission Consent Complaint," Mediacom Communications Corp., Complainant, v. Sinclair Broadcast Group, Inc. Defendant, CSR No 8233-C, 8234-M at 5); Comments of ACA, MB Docket No. 10-71 (May 27, 2011) at 10-11 (citing *Ex Parte* Communications in MB Docket No. 10-71 of Cable America (May 28, 2010); USA Companies (May 28, 2010); and Pioneer Telephone Cooperative (June 4, 2010)).

[28] We note, moreover, that individual broadcasters have disputed, as a factual matter, MVPDs' assertions that they "control," or, indeed, are even involved with, the retransmission consent negotiations of other stations in particular local markets. *See, e.g., Ex Parte* Letter from Jennifer Johnson, Covington & Burling, MB Docket Nos. 13-189, 10-71, 09-182 (Feb. 27, 2014).

[29] NAB Supplemental Comments at 3-4.

[30] *See, e.g., Ex Parte* Communication of Free Press, Common Cause, Communications Workers of America, Institute for Public Representation, Leadership Conference on Civil and Human Rights, National Consumer League, National Hispanic Media Coalition, Public Knowledge, United Church of Christ OC Inc., Charter Communications, DIRECTV, DISH, and Time Warner Cable, MB Docket Nos. 10-71, 09-182, 13-189 (Jan. 24, 2014) at 3.

Specifically, as recently as January 24, 2014 – long after NAB pointed out that the subject data was suspect – MVPDs continued to rely on erroneous *ex parte* data filed by Cable America Missouri to make the argument that jointly negotiated retransmission consent agreements resulted in fees up to 161% higher than individually negotiated agreements.[31] This data set was later corrected by the cable provider to decrease that figure to only 30.5%.[32] Cable America Missouri also updated its calculations and now estimates that the difference between the average retransmission consent fees it pays to "Big 4" stations that jointly negotiate their retransmission consent agreements and individually negotiated agreements is currently 18.7%.[33] The data originally presented is *nearly ten times* what Cable America Missouri today contends is the differential for what it pays in joint retransmission consent negotiations. Assuming this dramatically lower figure of 18.7% is reliable, such a differential could well be explained by factors other than joint negotiations, including the desirability to viewers of the particular broadcast stations involved and the relative dominance in the local MVPD market of the pay TV provider involved. Another of the examples often cited by MVPD interests was similarly flawed, and another exhibited confusion as to whether or not must-carry stations had been included in their retransmission-related calculations.[34]

To put these figures in context, SNL Kagan projects that "the average retrans fee per sub per month [will] rise from $0.78 in 2014 to $1.23 in 2019"; these "number[s] reflect[] an industry average" per station.[35] If one assumes average retransmission fees of $0.78 per sub, then the "extra" cost to MVPDs of joint negotiations would be 14.6 cents per sub (i.e., 18.7% of 78 cents). Even assuming higher average retransmission consent fees of $1.00 per sub, then the extra cost of joint negotiations would be 18.7 cents – still less than a quarter. As NAB has pointed out with regard to MVPDs' complaints about growth in broadcasters' retransmission

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[31] *Id.*

[32] *Ex Parte* Communication in MB Docket Nos. 10-71, 09-182 of Cable America Missouri LLC (Feb. 20, 2014).

[33] *Id.*

[34] *See Ex Parte* Communications in MB Docket Nos. 10-71, 09-182 of USA Communications (Feb. 24, 2014) (acknowledging that it had included must carry stations in its original calculations, and that its calculation of the average fee paid to stations that negotiated retransmission consent jointly as 133% higher than the average fee it paid to stations that did not engage in joint negotiations fell to 43% when examining only stations that were in fact retransmission consent stations); *Ex Parte* Communication in MB Docket Nos. 10-71, 09-182 of Pioneer Telephone Cooperative (Feb. 20, 2014) (stating that, although Pioneer previously reported that its calculations had included both retransmission consent and must carry stations, upon further review of its records, its calculations had included only retransmission consent stations).

[35] Robin Flynn, *Retrans projections update: 7.6 billion by 2019*, SNL Kagan (Nov. 18, 2013).

consent compensation generally, expressing figures in percentage terms – rather than dollars (or, more accurately, cents) can be misleading.[36]

It is clear that MVPDs have no convincing evidence – only a handful of seemingly unreliable anecdotes -- that joint negotiations by some broadcasters in local markets are a real driver of either the level of retransmission consent fees or pay TV providers' overall programming costs. Indeed, apart from these very few cable operators, no other MVPDs – including those, such as Time Warner Cable and DISH, which have been among the most vocal about the supposed harms of joint negotiations – have to NAB's knowledge submitted empirical evidence even purporting to show they pay higher fees when two broadcast stations in a market jointly negotiate retransmission consent. And, as discussed below, it is telling that MVPDs very rarely request separate negotiations, despite their vociferous claims of harm from joint negotiations. An examination of the record here in fact shows that "[n]either theory nor evidence" supports MVPD's claims that joint arrangements between broadcast stations cause higher retransmission prices.[37]

IV. MVPD Practices Demonstrate that Joint Negotiations Benefit Both Broadcasters and MVPDs

Complaints from MVPDs that joint negotiations are harmful also are disingenuous and hypocritical because, in practice, MVPDs often prefer joint negotiations. As NAB has explained in other filings, joint negotiations facilitate quicker resolution of retransmission negotiations and decrease transaction costs.[38] NAB members report incidents of cable operators requesting that retransmission consent for multiple stations be negotiated together.[39] Based on the record and information from our members, NAB understands that MVPDs typically do not ask broadcasters involved in local sharing arrangements to negotiate retransmission consent for each station separately.[40] NAB members have consistently reported that MVPDs of all types, from large to small, do not express objections to joint negotiations to the broadcasters involved in those joint arrangements.

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[36] *See, e.g.*, NAB Supplemental Comments at 2-3; NAB Retransmission Consent Comments at 15-17.

[37] Reply Decl. at 12.

[38] *See, e.g.*, NAB Supplemental Comments 12-13; NAB Retransmission Consent Comments at 27.

[39] *See* NAB Supplemental Comments at 13.

[40] *See, e., g., Ex Parte* Communication of the Coalition of Smaller Market Television Stations, MB Docket Nos. 04-256, 07-294, 09-182, 10-71 (Mar. 20, 2014) at 9 (stating that, in Coalition members' experience, MVPDs "rarely even request separate negotiations," and "in some cases, the MVPDs request that a station negotiate one agreement for both stations"); *Ex Parte* Communication of Bonten Media Group, MB Docket Nos. 07-294, 09-182, 10-71 (Jan. 22, 2013) (stating that "no MVPD has ever asked for separate negotiations").

Interestingly, the record shows that Cable America Missouri itself – despite its above-described claims about paying higher fees due to jointly negotiated retransmission consent – never objected to negotiations for two stations (KYTV and KSPR-TV) in a joint arrangement in Springfield, MO, or requested separate negotiations (a request that would have been granted if made, according to KYTV representatives).[41] If Cable America Missouri truly believed that it was being harmed by joint negotiations in Springfield, it surely would have at least raised the issue of negotiating separately. Its failure to even mention the issue leads one to wonder whether Cable America Missouri felt it was benefitting from the efficiencies of joint negotiations, rather than suffering harm from such negotiations. NAB accordingly urges the Commission to ignore pay TV providers' words about joint negotiations – clearly, their actions speak louder.

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As NAB has demonstrated herein and in numerous previous filings regarding retransmission consent, it remains abundantly clear that retransmission consent fees generally, and joint negotiation of retransmission consent agreements specifically, do not drive increases in MVPDs' consumer subscription rates. Consequently, for all of the reasons set forth above, there is no basis for the Commission to regulate the ability of broadcasters to negotiate retransmission consent agreements, whether individually or jointly. Instead, to promote consumers' interests, the Commission should look at the increasingly consolidated MVPD segment of the video marketplace, especially the marketplace effects of cable clustering.

Respectfully submitted,

Jerianne Timmerman

Jane E. Mago
Jerianne Timmerman
Erin Dozier

cc: Maria Kirby, Adonis Hoffman, Clint Odom, Matthew Berry, Courtney Reinhard, William Lake

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41 *Ex Parte* Communication of Schurz Communications, Inc., Entravision Communications Corp. and NAB, MB Docket Nos. 04-256, 09-182, 10-71 (Feb. 26, 2014) at 7.