



February 10, 2016

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

Re: Ex Parte Communication, MB Docket No. 15-216

Dear Ms. Dortch:

Mediacom – among the Top 10 largest pay TV companies in the country – has yet again asked the Commission to insert itself into the nitty-gritty details of retransmission consent negotiations.¹ The latest missive, a letter in which it bitterly complains about broadcasters’ negotiation practices, follows a long string of similar (and sometimes downright silly²) requests to alter the rules governing retransmission consent in their favor. The Commission can and should dismiss Mediacom’s complaint as another “sky is falling” ruse from arguably pay TV’s most strident advocate,³ and one of the nation’s most consumer-unfriendly companies.⁴

In Mediacom World, broadcasters have all the power. They can impose, or “demand,” unilateral conditions on massive pay TV companies, and they gleefully pull their signals before extracting supra-competitive rents. It doesn’t take much to recognize that Mediacom World is completely divorced from everyone else’s reality. It is a fantasy that appears intended to arouse government sympathy and a shiny object designed to distract everyone,

¹ Written Ex Parte Communication from Mediacom Comm. Corp. (Mediacom), MB Docket No. 15-216 (Feb. 3, 2016).

² See, e.g., Petition for Rulemaking of Mediacom (July 7, 2015), RM-11752; Public Notice, Consumer & Governmental Affairs Bureau, Reference Information Center, Petition for Rulemaking Filed, Report No. 3024 (July 15, 2015) (this oft-ridiculed petition made the completely unsubstantiated and ridiculous assertion that broadcasters were purposefully limiting their over-the-air coverage in order to gain more retransmission consent compensation).

³ See, e.g., Letter from Joseph E. Young, Senior Vice President, General Counsel & Secretary of Mediacom Comm. Corp., MB Docket No. 10-71 (filed July 26, 2015) (comparing NAB to Nazi propagandists that painted “Poland as the aggressor”); see also, Letter from Rocco Comisso, Chairman and Chief Executive of Mediacom, to FCC Chairman Tom Wheeler (July 7, 2015) (saying that the Commission’s “refusal to become involved in specific disputes combined with an unwillingness to adopt corrective regulations add up to a do-nothing policy”).

⁴ See, e.g., Daniel Frankel, “Mediacom wins race to bottom of customer service rankings for bundled services, edging TWC,” FierceCable.com (June 1, 2015) (citing a Consumer Reports consumer survey on telecommunications services that found “20 out of 24 pay-TV service providers had the lowest scores for value”).

including their customers, from Mediacom's long list of customer service challenges. As we noted in our comments, because broadcasters do not have undue bargaining power vis-à-vis pay TV providers, there is no reason for the Commission to even consider injecting itself into a quagmire of everyday negotiations between sophisticated business entities.⁵

In this instance, Mediacom complains about a proposal that is the rough equivalent of a most favored nation (MFN) clause. This particular complaint is rich, given that MVPDs pioneered the use of MFNs in retransmission consent agreements, squeezing dollar after dollar out of smaller broadcasters along the way. Moreover, and unsurprisingly, Mediacom offers no evidence of the practice that it claims is prevalent. Most likely, Mediacom is mischaracterizing proposals made by broadcasters, which were originally intended to cover joint sales agreements, to support its argument that all-powerful local broadcasters have run amuck.

The most notable thing about Mediacom's latest filing is that it proves NAB's point throughout this proceeding: the longer the Commission holds up the flypaper of retransmission consent reform, the more flies it will attract. It's time to close this proceeding, zap the flies and allow the parties to focus on negotiating with each other rather than the FCC.

Respectfully submitted,

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

Rick Kaplan
General Counsel and Executive Vice President
Legal and Regulatory Affairs
National Association of Broadcasters

⁵ See Comments of NAB, MB Docket No. 15-216, at 8-22 (Dec. 1, 2015).