

Testimony of Martin D. Franks

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I am Martin Franks. I am an Executive Vice President at CBS, where I have worked for 25 years. In 1992, I helped write the Retransmission Consent provision of the '92 Cable Act, and I have been involved in negotiating all of CBS's retransmission consent agreements since 2000.

We know very well that our viewers, your constituents, are innocent victims in this corporate crossfire. CBS is in the business of attracting viewers, not being cut off from them. We also realize that not everyone affected by this dispute can resort to an antenna to watch our broadcasts beaming for free from the top of the Empire State Building, or switch to Verizon FiOS, DirecTV, RCN or other providers. Those are remedies for some, but clearly not for all.

We know that the best solution is to reach a new agreement with Time Warner Cable that reconnects their subscribers to our programs, and we have been trying to do just that, but doing so will take two, so let me share some insight into our negotiation with Time Warner.

I know it can be hard to cut through all of the rhetoric from all sides of this dispute, so let me ask you to remember **JUST ONE THING** from what I say today.

Since 2006, when CBS became a standalone company, we have negotiated over 100 retransmission consent agreements without even a hint of public discord, much less having our channels dropped...until now.

I have personally overseen successful and mutually beneficial negotiations with companies like AT&T, Cablevision, Charter, Comcast, DirecTV, Dish Network, RCN and Verizon...which resulted in uninterrupted access to CBS's immensely popular programming for their millions of subscribers.

ONLY this latest negotiation with Time Warner Cable has gone badly off course.

Over the same time frame, Time Warner Cable has had numerous public disputes and subscriber disruptions...over 50...with many broadcasters around the country as well as other cable programmers, including last year's dispute with MSG during the height of the Knicks' "Linsanity." Even as we meet here today, Time Warner Cable has also dropped broadcast stations in Omaha, Milwaukee, Green Bay and Palm Springs.

So please, out of all you will hear today, please remember...until now, CBS's record of good faith successful retransmission consent negotiations was perfect...while Time Warner Cable's record is littered with many public disputes.

I realize that may be cold comfort to New Yorkers deprived of some of their favorite programs, but it should color your thinking on the rest of what you hear today about this dispute.

Let me take you back to last Friday. Despite Time Warner Cable briefly taking our signals down a week ago Monday night, CBS continued to negotiate in good faith throughout last week. In fact, in conversations during the day last Friday, we made it clear that we were willing to leave our signals on Time Warner Cable while we continued to seek a new agreement.

That fact was reiterated to the highest levels of Time Warner literally at the 5 p.m. deadline, but instead of continuing to talk, Time Warner Cable told us they would have more leverage in the negotiation if they dropped us, which they immediately proceeded to do.

When they dropped CBS and Showtime, Time Warner Cable was sitting on a detailed 100 page proposal from us for a new agreement. That lengthy CBS proposal laid out economic terms that reflect the popularity of our program offerings to Time Warner Cable subscribers, and why we feel that CBS deserves a fair rate for those programs...particularly when at least 10 other channels that Time Warner Cable carries are paid more by them even though their Nielsen ratings are much lower than ours.

And because our prior agreement with Time Warner Cable was negotiated in 2008, before the Ipad was invented, when Netflix was still only in the mail order DVD business, and Amazon only sold books, along with our economic proposals, we suggested updated contractual terms and conditions. These terms and conditions are virtually identical to what every other cable, satellite or Telco provider has signed up for with us in the past few years. Let me say that again: the terms and conditions we have proposed are virtually identical to what every other program distributor has signed up for ---without public dispute---in the past few years.

Progress was actually made last week on some of the points, and at CBS, we were finally beginning to see a path to a new agreement...until Time Warner chose

instead to cut off both the negotiations and our channels to their subscribers because, as they explicitly told us, it would give them more leverage.

Time Warner Cable will tell you they want to reach a new agreement also, but let me share some thoughts that I suspect hold them back from accepting our proposals.

First, they insist they cannot possibly pay the price we are asking without passing those costs on to consumers. That is certainly one option they have, but despite rising programming costs, over the last three years, their handsome overall profit margins have remained constant indicating that their other businesses, such as high speed internet, are growing robustly. Since their video customers often are the point of entry for their quite successful “triple play” bundle, as a consumer proposition, they could easily choose to absorb these programming costs...and still be very profitable.

Second, as they tried earlier this week, they will suggest that CBS just live by the same terms and conditions as the agreement that just expired. As I noted earlier, not only are those old terms hopelessly outdated, they would result in Time Warner Cable receiving incredibly valuable CBS content for free...content that others are now paying us millions of dollars to distribute. Even Time Warner Cable may realize this is not realistic...because perhaps their real aim here is to use those outdated terms to hamstring our ability to do business with Netflix, Amazon, Hulu Plus and other new entrants that pose a new competitive threat to their former, cozy, unchallenged monopoly status.

CBS is not going to become Time Warner Cable's accomplice in trying to throttle those new services. That would hardly be in the best interest of New Yorkers or consumers across the country. And as I noted earlier, every other provider has agreed to the terms we have offered Time Warner. Those other providers did not insist upon the anti-competitive edge that Time Warner is demanding.

I will be happy to take your questions, but please let me conclude by asking you once again to remember the comparative records of the two companies in retrans negotiations...ours previously unblemished...theirs littered with disruptions to their subscribers.

We regret this adversity for New Yorkers, and our audiences in other Time Warner Cable markets. We remain fervently committed to reaching a new agreement quickly and to restoring our programming to New Yorkers who have lost it, but to do so, we need Time Warner Cable to come to the table in good faith and to do the hard work necessary to reach a mutually beneficial agreement for both companies and the audiences we share.

Thank you.