August 28, 2014

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

Re: Notice of Ex Parte Communication, MB Docket No. 10-71

Dear Ms. Dortch:

On Wednesday, August 26, 2015, the undersigned, along with Chris Aldridge of WTVQ (Lexington, KY) and Marti Hazel of WDRB (Louisville, KY) met with Kathy Berthot and Holly Sauer of the Media Bureau to argue for maintenance of the Commission’s program exclusivity rules. In the meeting, we explained why elimination of the two exclusivity rules – the network non-duplication rule and the syndicated exclusivity rule – would not serve the deregulatory function that some have suggested. Instead, it will exacerbate the “David and Goliath” problems already present in the video marketplace between small TV broadcast stations and very large national multichannel video program distributors (MVPDs).

Eliminating the exclusivity rules as proposed would be another competitive favor for consolidated MVPDs. While there are some large businesses in the broadcast TV industry that grab the headlines, the Commission cannot ignore the hundreds of small owners with only one or a handful of TV stations, which will undoubtedly be harmed by elimination of these rules. Smaller broadcasters operate with thinner cash flow and profit margins. Shifting onto these broadcasters the burden of enforcing their bargained-for exclusivity rights through the judicial system will directly impact their ability to provide local programming to the public. If a small market broadcaster is forced to spend $50,000 to $100,000 on a lawsuit it would not need to spend under the current rules, that’s a reporter the station has to fire, or five new cameras it cannot buy. If it must spend $1 million on a lawsuit, a small station may not survive.

And for what public interest purpose? The Commission’s exclusivity rules have served, and continue to serve, an important role ensuring a robust local broadcasting system in markets of all sizes. And they have been effectively costless to enforce. The Commission has had to adjudicate just a handful of exclusivity disputes in the rules’ long existence. The Commission does not have any staff dedicated solely to enforcing exclusivity. It is also unclear what benefit might arise from elimination of the rules. Cable operators are waiting for the opportunity to import into local markets distant, lower-priced signals that carry the same network and syndicated programming as local channels. But there is no evidence those operators would pass any savings onto consumers. The Commission cannot justify a rule change that serves only to
help major cable operators while hobbling the ability of local stations to provide local -- rather than imported and distant -- news, weather and emergency information. And all at the cost of consumers.

Accordingly, we implore the Commission to reject this proposal to eliminate the programming exclusivity rules.

Sincerely,

/s/ Steven W. Newberry

Steven W. Newberry
President and CEO
Commonwealth Broadcasting