September 9, 2015

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 September 2, 2015, local broadcasters Sandy Breland, Group Vice President, Raycom Media; Randy Ingram, WBTW, Myrtle Beach/Florence, SC; Bill Huggins, WPDE/WWMB, Myrtle Beach/Florence, SC; Jimmy Cromwell, WJTV-TV, Jackson, MS; Richard Howe, KAZT-TV, Prescott/Phoenix, AZ; and the undersigned, accompanied by Jerianne Timmerman of the National Association of Broadcasters, met with Michelle Carey, Kalpak Gude, Nancy Murphy, Steven Broeckaert, and Kathy Berthot of the Media Bureau. The broadcasters stated their strong opposition to the FCC’s proposal to eliminate the program exclusivity rules.

In the meeting, the broadcasters described the myriad ways they and other local broadcasters across the country serve their communities every day and particularly during emergencies. They explained how local stations could not earn the revenues needed to offer local news and other locally-oriented service without having exclusive rights in their markets to network and syndicated programming.

The local broadcasters stressed the importance of the FCC’s rules to maintaining program exclusivity, especially for stations in medium-sized and small markets. They expressed serious concerns that elimination of the rules would incentivize the retransmission of distant, larger-market stations into smaller markets, resulting in a rapid and harmful reduction in local service to smaller market communities. In this regard, the broadcasters pointed to past instances in which multichannel video programming distributors imported distant, large-market stations carrying duplicating programming into smaller markets.

The local broadcasters also noted how the size and strength of the large cable operators greatly impact retransmission consent negotiations and how small broadcast stations are at a competitive disadvantage in these negotiations. Making it easier for cable operators to import distant stations with duplicate network and syndicated programming would further increase cable operators’ advantage over local stations in
retransmission consent negotiations – which is the real reason that the cable industry has pushed for repeal of the FCC’s rules.

The broadcasters in attendance further explained why they could not rely on judicial enforcement of program exclusivity contracts. Judicial recourse would be highly uncertain, given the complicated questions of which parties have the incentive and the ability (given privity of contract issues) to sue to enforce exclusivity contracts. The length of time and sheer cost associated with these lawsuits, moreover, would make them impossible for small broadcasters to pursue. In contrast, the current rules allowing for enforcement of program exclusivity agreements at the FCC have functioned, and continue to function, efficiently and effectively.

Because the FCC’s exclusivity rules help local stations serve their communities, the broadcasters could see no reason for the Commission to repeal their rules. Certainly there would be no consumer benefit – as opposed to cable company benefit – from elimination of the rules.

If you have any further questions about this or any other proceeding that impacts broadcasters and local communities, please feel free to contact any one of us. Thank you for listening to our concerns.

Sincerely,

/s/ Polly Prince Johnson

Polly Prince Johnson
President/CEO
Louisiana Association of Broadcasters

cc: Michelle Carey
    Kalpak Gude
    Nancy Murphy
    Steven Broeckaert
    Kathy Berthot