



**WRITERS
GUILD OF
AMERICA, WEST**

May 7, 2014

The Honorable Howard Coble
Chairman
Subcommittee on Courts, Intellectual Property, and the Internet
U.S. House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Jerrold Nadler
Ranking Member
Subcommittee on Courts, Intellectual Property, and the Internet
U.S. House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Coble and Ranking Member Nadler,

The Writers Guild of America, West (WGAW), a labor organization representing more than 8,000 professional writers of motion pictures, television, radio, and Internet programming, including news and documentaries, strongly supports a clean reauthorization of the Satellite Television Extension and Localism Act (STELA). We want to ensure the 1.5 million subscribers who currently receive broadcast programming using the distant signal provisions of STELA can continue to do so. We are, however, particularly concerned by attempts to change retransmission consent rules through this reauthorization and hope as a member of both the Judiciary Committee and its Intellectual Property Subcommittee you will resist attempts to do so.

In 1992, Congress passed the Cable Television Consumer Protection and Competition Act, which prohibited multichannel video programming distributors (MVPD) from retransmitting a broadcast station's signal without the station's consent. In doing so, Congress correctly recognized the government's role in protecting broadcast television from the power of cable operators in the distribution of television programming. To reach the public, today, broadcast networks and their affiliates rely on a concentrated MVPD market, with the four largest distributors providing service to two-thirds of all MVPD subscribers.¹ This fact makes a strong retransmission consent regime more, not less, necessary.

¹ Company data and SNL Kagan.

Maintaining a healthy broadcast television industry remains an important goal because it continues to be a vital source of news and local programming. According to Pew Research, 71% of adults watch local television news, more than any other television news source.² Another survey by Pew found that local television news ties with newspapers as the top source for local political news.³ While cable and the Internet have given rise to additional news outlets, both offer little of the local reporting that remains important to the democratic discourse.

Broadcast television also offers consumers the most original and most watched content. In an average week, the top four broadcast networks all reach more than two-thirds of television households.⁴ The primetime television series airing on the broadcast networks--including such shows as *Modern Family*, *The Good Wife*, *Parenthood* and *Glee*-- continue to receive the highest ratings, with only a few basic cable series coming close. The broadcast networks also offer the sports programming and award shows that attract the largest live audiences in each year. In the 2012-2013 television season, broadcast accounted for 96 of the top 100 programs among adult viewers aged 25-54.⁵ As such, the broadcast networks are responsible for a great deal of the must-have programming that makes an MVPD service attractive.

Broadcast television continues to offer the best employment standards for writers and others in the entertainment industry. Broadcast series typically produce more episodes than basic cable programs, providing close to year-round employment for the hundreds of workers who make each show possible. In contrast, basic cable series have shorter episode orders, smaller writing and production staffs, and a less predictable employment schedule. Despite the growth of original programming on basic cable networks, the majority of television jobs held by our members are on broadcast shows. These series provide the highest levels of both initial and residual compensation for writers and other entertainment industry workers.

Broadcast networks continue to produce original content in a time of increased viewing and advertising alternatives brought about by cable networks and online video. Retransmission negotiations allow broadcasters to diversify revenue sources, and in doing so, adapt to a media landscape where four networks no longer account for all television viewing. Cable networks have long operated on a dual revenue stream business model, with both advertising and affiliate fees providing funds for investment in programming. Retransmission consent allows broadcasters to adapt.

² Amy Mitchell, Mark Jurkowitz, Jodi Enda and Kenny Olmstead, "How Americans Get TV News at Home," Pew Research Center, October 11, 2013, <http://www.journalism.org/2013/10/11/how-americans-get-tv-news-at-home/>, p. 1.

³ Pew Research, "How People Learn About Their Local Community," September 2011, <http://www.pewinternet.org/files/old-media/Files/Reports/2011/Pew%20Knight%20Local%20News%20Report%20FINAL.pdf>, p. 3.

⁴ TVB, "Television Basics," Updated June 2012, http://www.tvb.org/media/file/TV_Basics.pdf, p. 7.

⁵ TVB, "The 2012/2013 Television Season: The More Things Change....," http://www.tvb.org/research/2053636/2012-13_Season_Recap.

While the WGAW is also concerned with the rising cost of cable service, we cannot deny that television today offers so much more to consumers than even a few short years ago. Consumers have transitioned from a world where television networks were in control of the viewing schedule to one in where they decide when and how to enjoy their television shows. Viewers today can watch primetime broadcast programming at just about any hour of the day. Retransmission fees currently constitute a small portion of a cable bill and we do not think weakening the rules is the answer to rising prices. Rather, it is our belief that increasing competition among distributors would do more to address pricing.

It is unfortunate when viewers lose access to the programming our members create during blackouts, but we recognize that such actions are sometimes necessary to protect the value of content. We believe that the loss of viewers and advertising revenue presented by a signal interruption is sufficient incentive for a broadcaster to make a fair deal. Experience has shown that blackouts typically last a period of days or a few weeks.

The WGAW is also opposed to the reauthorization process being used to undermine competition in the set-top box market. Consumers currently have too little choice when it comes to their MVPD set-top box and weakening Section 629 of the Communications Act by repealing the “integration ban” is a move in the wrong direction.⁶ The Internet has given rise to new video choices for consumers. Making this content available on the same device with MVPD programming will increase access to diverse and independent programming, but only if a competitive set-top box market emerges. Absent such competition, we fear that MVPDs will remain content gatekeepers, and unaffiliated content will not be available on MVPD set-top boxes.

We respectfully ask for a clean reauthorization STELA, rather than changes that will weaken the negotiating rights of broadcast stations and set-top box competition. Thank you for your consideration on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ellen Stutzman', with a long horizontal line extending to the right.

Ellen Stutzman
Director of Research and Public Policy
Writers Guild of America, West

⁶ 47 U.S.C. §549.