

“TELEVISION VIEWERS, RETRANSMISSION CONSENT, AND THE PUBLIC INTEREST”

**Testimony before the Senate Subcommittee on Communications, Technology and the Internet by
Charles Segars, CEO, Ovation**

Mr. Chairman and committee members, on behalf of Ovation, the only national television network dedicated to Arts and Culture in America, thank you for inviting us to testify today. My name is Charles Segars. I am the CEO of Ovation, a viable, independently owned television network that has earned carriage to 43 million homes, and is paid a fair, market-based rate from distributors who are committed to providing a unique programming service to their customers. They include: Time Warner Cable, DirecTV, Verizon FiOS, Dish, Charter Communications and Comcast Cable, who, as I speak with you today, continues our roll out.

Mr. Chairman, the detrimental effect of retransmission consent threatens the very existence of independent networks like Ovation. I am here supporting reform of these regulations to ensure consumers have access to a diversity of voices on television.

Senator Kerry, in a recent editorial you quite aptly pointed out that the old rules are outdated and to continue with the status quo is bad for consumers, competition and democratic participation. As an independent programmer, trying to remain competitive, your words ring true. This regulatory structure restricts our ability to grow our distribution, maintain fair subscriber fees comparable to those of other networks, and reinvest those fees into local and national arts programming for an under-served consumer. Retransmission has enabled primarily the largest broadcast companies to bundle an excess of channels, eating up valuable bandwidth and taking more than their fair share of fees that would otherwise be available in a free market system.

Seated here amongst these media executives, I fully grasp the meaning of the phrase “between a rock and a hard place.” It is illustrative of the predicament that Ovation and all independent programmers find themselves in today. On one side is an extraordinarily well-operated, vertically integrated media company, who, like most since 1992, astutely

traded retransmission consent to gain carriage and fees to launch new networks. Now, they are seeking to effectively get paid twice. Once through a direct payment of retransmission fees for their broadcast programming and again through fee increases on the very cable channels their retransmission consent enabled them to launch.

On the other side are a couple of major distributors, who believe they have already been forced to carry and pay for networks they didn't want. And, now they must pay for the transmission of free over-the-air broadcast signals at a cost that adversely affects their ability to affordably provide TV to their subscribers.

And, in between these fiercely competitive companies are the last remaining independent networks.

With retransmission fees likely to top 1.3 billion dollars by 2012, distributors will have to look to their customers to make up some of the difference. And they will have to aggressively cut programming costs too. Independent networks, with no service bundling advantage through retransmission, and little leverage, despite delivering under-served categories like the Arts, will be targeted.

As a result, diversity in programming, one of the very reasons retransmission consent and must carry was created in the first place, will vanish.

This is a call for a level playing field. If large broadcasters are allowed to use the airwaves owned by all Americans to extract payment for historically free TV service, then let's not allow them to bundle all their other services with it. If an alternative dispute resolution process for distributors and programmers is to be considered, do not limit it only to those programmers who are trading on retransmission consent, but open that dispute process to ALL programmers, including the few remaining independent ones.

The greatest measurement of our democracy is the freedom it gives its people to express their views and have access to a myriad of ideas and information. You can mandate an examination of the retransmission consent regime and recommend adjustment of these regulations to better safeguard our freedom by ensuring the survival of a diversity of independent voices in media. On behalf of Ovation, the only arts network in America, we

greatly look forward to the day when we can compete in a free market with a level playing field for all participants. Thank you.