



STATEMENT OF

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CBS CORPORATION

**BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE
AND TRANSPORTATION**

HEARING ON THE CABLE ACT AT 20

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Good afternoon, Chairman Rockefeller, Ranking Member Hutchison and Members of the Committee. My name is Martin D. Franks, and I am Executive Vice President, Planning, Policy and Government Relations of CBS Corporation. I appreciate the opportunity to speak with you today about the state of the video marketplace 20 years after the Cable Act.

In a nutshell, as CBS can attest--as can I personally in my role as the principal retransmission consent negotiator for the company--the market for video programming is one of the country's most robust and competitive sectors in the U.S. economy.

I believe that the retransmission consent regime enacted in 1992 is actually one of the great Washington public policy accomplishments of the intervening two decades. It has given renewed vitality to broadcast television that prior to 1992 was being consigned to the dust heap of history. That there are some calling for a return to the old regime, when they got their most popular product for free, and then resold it and used the proceeds to build their own businesses, is hardly a surprise. Congress should resist those entreaties, especially since retransmission consent is not broken.

It has been estimated that some 15,000 retransmission consent negotiations take place every three years. And almost all of them are completed successfully. Over the last six years CBS has completed all of its retransmission consent negotiations successfully and without incident.

Any tampering with retransmission consent laws and rules now could trigger severe negative results to a broadcast television industry that is actually contributing positively to the U.S. economy. To the extent that impasses in negotiations occur with more frequency today, it is due, at least in part, to the belief by a handful of distributors that disruptions may help them advance their public policy goals in Washington, that is, by trying to make a working model look broken. Sometimes, too, these few distributors hold back from successful conclusions to retransmission negotiations in hopes that the government will step in to assist them.

Fortunately, from my perspective, competition in the communications world has never been so robust. But that is the real concern of those in our industry calling for a change to retransmission consent. They are unnerved, nay threatened, by competition. And that is why we are here today. Because they now believe that deleting retransmission consent will end the balance of power and tip the scales in their favor. Yet, the very MVPDs who today are calling for deregulation of retransmission consent are the very same entities who have been filing reams of paper and making countless visits to the FCC over the last two or three years trying to do the very opposite, that is, to impose brand NEW retransmission consent-related regulations--such as mandated standstills and arbitration--to benefit their own bottom lines at the expense of broadcasters.

Encouraging the FCC to become an active participant in retransmission consent negotiations, as the leaders of the American Television Alliance have suggested, would serve to hinder the current free market negotiations, not set

them free. Retransmission consent negotiations are complex and time-intensive negotiations that involve much more than price. Inserting a government-run arbitration provision coupled with a standstill requirement would lead to an FCC that focused on nothing but retransmission consent negotiations to the detriment of the agency's core mission. Broadcasters across the country want to be carried by distributors, and distributors want to carry broadcast television stations because of the popularity of our local and national programming. This equal amount of "skin in the game" is the best incentive to reasonable agreements.

In exchange for use of the public's spectrum, broadcasters are bound to operate in the public interest. Accordingly, to this day, we fulfill that requirement with great enthusiasm, pride and excellence. But never did we agree that the valuable programming we develop, purchase, produce and offer over-the-air on our stations can be retransmitted by another entity without our permission.

CBS understands the real world of innovation and the challenges it brings. We were one of the founders of television more than 80 years ago, and today we are a leader in the video marketplace. Our company not only has businesses with origins that date back to the dawn of the broadcasting age, it also has new ventures that operate on the leading edge of media. We own the most-watched television network in the U.S. and one of the world's largest libraries of entertainment content. We believe in innovation and the power of broadcasting.

The CBS Television Network serves almost every household in the nation via a broadcast distribution platform made up of about 200 affiliated TV stations.

These stations, in turn, supplement the CBS content we license to them with their own packages of local news and public affairs programming, as well as syndicated and other product that they either acquire from other suppliers or produce themselves. Stations do not own much of the non-news content they transmit; instead they obtain from content producers and owners the rights to broadcast it.

Each year, CBS spends billions of dollars to produce and acquire top-notch programming. As for sports, CBS pays hundreds of millions of dollars each year to the NFL and to the NCAA for rights to March Madness alone, and that is before you consider rights fees for SEC Football, regular season NCAA basketball, PGA golf and to the USTA for rights to the U.S. Open Tennis Tournament.

Our investment in superior programming helps not only the CBS network and our owned-and-operated television stations, but also our affiliated stations nationwide. When network programming is of high quality and compelling, local stations benefit. From large DMAs like Boston and Dallas to smaller DMAs like Myrtle Beach and Clarksburg-Weston, local stations are able to present this network programming to obtain advertising dollars so that they, in turn, can make significant financial investments in the production, gathering and reporting of local news, sports, weather and other information. Local stations also are able to invest in rights to syndicated programs, such as "Wheel of Fortune," "Jeopardy," "Ellen," "Dr. Oz," "Seinfeld" and "Friends," which are obtained from other content producers.

And, may I add, broadcasting is the most desirable platform for advertisers on both the local and national levels. Advertising is a powerful engine in the U.S. economy and subsidizes much of the programming in this country. Additionally, because of the unique nature of the network-affiliate system, small businesses are able to buy promotional time at affordable rates in their communities and get the most bang for their advertising buck.

CBS looks forward to continuing to vigorously compete in the open marketplace this Committee created in 1992. As you recognized then in the report to accompany the Cable Act, "It is the Committee's intention to establish a marketplace for the disposition of the rights to retransmit broadcast signals; it is not the Committee's intention in this bill to dictate the outcome of the ensuing marketplace negotiations." We thank the Committee for including us in discussions surrounding the future of the industry in which we plan to constructively contribute for many decades more.