



**Hearing on the “Reauthorization of the Satellite
Television Extension and Localism Act”**

**United States Senate
Committee on Commerce, Science and Transportation
*Subcommittee on
Communications, Technology, and the Internet***

April 1, 2014

**Statement of the Honorable Gordon Smith
President and CEO
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Good afternoon, Chairman Pryor, Ranking Member Wicker and members of the Subcommittee. On behalf of the NAB and its over 1,300 local television stations, it is an honor to be back in front of this Committee.

I appreciate the opportunity to discuss the reauthorization of the Satellite Television Extension and Localism Act of 2010 (STELA), which is set to expire at the end of 2014. STELA, at its core, is a satellite bill. Passed in 1988, this law was intended to be a *temporary* fix to help satellite carriers better compete with cable. Twenty-five years later, satellite has grown to be the second and third largest pay-TV companies in America, with combined revenues of \$46 billion and 34.2 million total subscribers. This law has clearly served its intended purpose, which is why NAB asks the Committee to take a hard look at whether this bill should be reauthorized at all. But, if in this Committee's wisdom it determines that STELA should receive another authorization, NAB asks that the bill be clean of any unrelated or controversial provisions that harm the ability of your local television stations to serve your local communities.

Both localism and diversity are bedrock principles that have guided communications policy for decades, and specifically the laws governing satellite carriage of broadcast signals. The key to promoting localism and diversity is the creation and distribution of locally-produced content relevant to our communities. In fact, the word "localism" even finds itself in the title of the bill we are discussing here today.

I'm proud to say that the United States does localism better than any other country around the globe. It is viewers that are rewarded with coverage of matters of importance imperative to local communities – community news, severe weather and emergency alerts, school closings, high school sports, local elections and public affairs. Localism is also support for local charities, civic organizations and community events. Broadcast stations provide local businesses a place to advertise and inform consumers about their goods and services, which in turn, creates jobs and supports local economies. It is local broadcasters that create a sense of community by addressing the needs of the public, based on a familiarity with, and commitment to, the cities and towns they serve.

For these reasons, NAB asks this Committee to continue to invest in the value of local content and keep STELA free of language that could undermine the legal framework that enables this fundamental mission of localism. While all of this is addressed in detail in the letter we provided to the Commerce Committee three weeks ago, four proposals in particular would undermine our ability to deliver locally-focused service.

First, pay-TV industry proposals that would mandate standstills or importation of distant signals in the event of retransmission consent impasses are just naked attempts to distort market-based retransmission consent negotiations in favor of cable and satellite.

In today's fiercely competitive video landscape, local broadcasters rely on the dual funding stream that comes from advertising and retransmission consent to invest in our programming. And the health of local television stations is in everyone's best interest. Broadcasters are a primary source of news and local programming. According to Pew Research, 71% of adults watch local television news, more than any other television news source. While you can find national news outlets on cable and the Internet, none of these channels provide the local reporting that remains so important to our democratic discourse. When cable news channels "break" stories impacting your local community, such as the tragic mudslides outside of Seattle, they use raw material provided by your local broadcasters. No other medium has boots on the ground with the experience to cover stories in a timely and accurate fashion.

The current retransmission consent system is fair given the tremendous value of the content that broadcasters provide to pay-TV companies. Not only does broadcast dominate the top 100 shows on television every week, we offer the sports programming and award shows that attract the largest live audiences every year. To be fair, consumers don't buy cable to put more wires and cords in their living room or satellite to decorate the roof with an antenna; they buy these services for the content they provide. It is "must-have" broadcast programming – shows like Modern Family, New Girl, The Big Bang Theory, and NFL football – that pay-TV companies use to sell subscriptions. For this reason, it is only fair for

MVPDs to pay broadcast stations for the ability to offer this value to their paying subscribers.

Attempts to paint local television stations as the behemoth in these retrans negotiations should be dismissed, since in reality it is broadcasters who are selling to a highly concentrated pay-TV market, controlled by a few large and powerful buyers. According to the recent subscriber figures, the top four pay-TV companies control 67% of the market. The satellite companies, who are here today asking for a leg-up in retransmission consent negotiations, make up a full one-third of all pay-TV subscribers. And the concentration among the top 10 pay-TV providers stands at 92 percent. There is no doubt, these pay-TV providers wield significant market power, yet it is the existing retransmission consent system that restores the balance of power between local television stations and highly concentrated MVPDs.

In particular, inviting the FCC to order interim carriage of a broadcast station during a dispute would assure disputes would never be resolved. Such a change would undercut the only leverage a broadcast station has to secure an agreement. Moreover, allowing pay-TV companies to import an out of market broadcast signal during a dispute – with news, weather and advertising irrelevant to those viewers – would undermine the localism Congress specifically sought to promote. It also provides a back door for MVPDs to avoid negotiating a fair rate for broadcast programming in the marketplace.

Second, reforms to the basic tier and buy-through requirements would harm our viewer's ability to access broadcast programming at a low cost. Broadcast television stations have been carried on the most highly penetrated service level by cable systems, and should remain on what's known as the "lifeline" level of service. Consumers should have access to local broadcast content like the local news, public safety, weather information and information of critical community interest. For this reason, Congress determined that broadcasters should be on the basic tier and part of every cable subscribers' package, a reason that remains important today.

The removal of broadcasters from the basic tier will have the certainly unintended effect of increasing cable bills for the subscribers who want their local broadcast channels. If taken off the basic tier, these subscribers – generally minority and elderly viewers – will be forced to buy a more expensive tier to get the programming they receive today.

Additionally, local broadcasters have concerns with MVPDs restructuring the designated market areas (DMAs) which local stations use to gauge audience share and advertising rates. While almost half of all DMAs cross state lines, local broadcasters have provided non-duplicative, local originating programming time and time again. A number of cable companies are currently providing this in-state programming and we would encourage the satellite industry to do the same.

As Congress looks at these issues, separately from the narrow STELA reauthorization, NAB believes a number of items should be considered to protect

consumers from monopolistic MVPDs. No consumer should have to pay for programming they do not receive. Loss of programming from an MVPD should result in an immediate refund. Consumers should also be allowed to switch providers without prohibitive penalties. And lastly, both broadcasters and MVPDs should also keep viewers informed with enhanced consumer notifications.

Finally, I'd like to share with this Committee our serious concerns regarding the FCC's recent action on joint sales agreements and the harmful effect it will have on localism. These agreements between broadcasters, like joint ventures, foster *more* local news, provide access to capital for minority broadcasters and offer a diversity of programming options in local communities. I am so disheartened that the FCC failed to acknowledge the enormous benefits to viewers and local communities that can result from these agreements.

In conclusion, at the core of STELA and its predecessors is the fundamental concept and enduring value of broadcast localism. If the Committee decides to reauthorize STELA, NAB urges you to pass a clean reauthorization and reject calls from the pay-TV industry to add controversial issues with the sole purpose of giving them a leg up in market-based negotiations.

I thank you for your efforts and look forward to working with this Committee on a successful outcome.