



Testimony of

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On

“Reauthorization of the Satellite Television Extension and Localism Act”

Before the

Senate Committee on
Commerce, Science, and Transportation

Subcommittee on Communications, Technology, and the Internet

April 1, 2014

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Good afternoon, Chairman Rockefeller, Ranking Member Thune, Chairman Pryor, Ranking Member Wicker, and members of the Subcommittee. My name is Mike Palkovic and I am the Executive Vice President of Services and Operations of DIRECTV. Thank you for inviting me to testify on reauthorization of the Satellite Television Extension and Localism Act of 2010 (or “STELA”).

I want to begin by thanking you and your staff for the hard work you have put in preparing for this hearing. Last month, you sought written submissions from a variety of stakeholders. My company and DISH Network jointly submitted a response on behalf of our more than 34 million subscribers.¹

I would like to highlight two points of that response. **First**, Congress must renew STELA to preserve service to millions of your constituents. **Second**, when it renews STELA, Congress can also help hundreds of millions of Americans by providing “blackout relief.”

With all of the other issues before this Committee, it’s sometimes easy to forget that STELA’s key distant signal provisions are due to expire this December. Your constituents, however, have not forgotten about these provisions.

More than 1.5 million subscribers, many in the most rural areas of the country, receive at least one distant network signal from DIRECTV or DISH. In many cases, only STELA permits them to receive network television at all. In all cases, failure to renew STELA would remove channels from people who receive them legally today—many of whom have done so for years—and who would not understand why they were taken away.

Because satellite television legislation expires every five years, however, STELA renewal also presents Congress with the opportunity to step back and examine broader issues. Congress has renewed satellite television legislation four times before. Each time, it examined intervening changes in the marketplace and acted to fix problems it found. These changes ranged from the large (permitting satellite carriers to offer local signals in 1999) to the small (updating technical provisions of the cable statutory license in 2010).²

¹ A copy of that response is attached to this testimony as Appendix A.

² A chart summarizing these changes is attached to this testimony as Appendix B.

Today, the biggest problem facing television viewers by far is the recent increase in broadcaster blackouts. There were twelve blackouts in 2010. Last year there were 127.

You have now heard from both sides in what have become known as the “retransmission consent wars.” Broadcasters think that our subscribers don’t pay them enough for their programming, even though they offer it over-the-air for free. We wish broadcasters would pay *us* for delivering their signals to millions upon millions of our subscribers who would never be able to get them over the air. We also think that outdated laws and regulations prop up broadcasters’ market power, leading to all kinds of documented abuses and strong-arm tactics.

But your constituents do not care about who is right or wrong on these issues. They care above all about losing programming during broadcaster blackouts. And on this point, there is no dispute: broadcaster blackouts have increased dramatically.

Congress never meant for things to get to this point. When it passed retransmission consent in 1992, Congress meant to encourage localism. It did not mean help the big networks, and certainly did not mean to *prevent* viewers from seeing broadcast programming.

Sen. Daniel Inouye (HI-D) – “... If [the FCC] identifies such unforeseen instances in which a lack of agreement results in a loss of local programming to viewers, the Commission should take the regulatory steps needed to address the problem.”

Rep. Sonny Callahan (AL-R) – “This right of retransmission consent... is a local right. This is not, as some allege, a network bailout for Dan Rather or Jay Leno. Networks are not a party to these negotiations, except in those few instances where they own local stations themselves.”

It seems clear to us, however, that changes in the marketplace over the last 20 years have swept away Congress’s good intentions.

The time is ripe for some form of “blackout relief.” Blackout relief would not favor one side or the other. It would merely ensure that viewers don’t lose the programming they depend upon.

The most basic form of blackout relief would be to require broadcasters not to black out their signals. Under such a “standstill” provision, signals would remain up while the parties negotiate, with the ultimate agreement applying retroactively so that no party benefits from delay. If parties are unable to reach agreement after some amount of time, they could submit their best-and-final offers to baseball-style arbitration.

Under another variety of blackout relief, pay-TV providers could temporarily import distant signals during broadcaster blackouts. (Providers would pay royalties for those signals under the distant signal provisions that apply today.) This would be an imperfect solution for consumers, as they typically prefer local programming to distant programming. Yet it would at least provide them with national network programming during disputes. Pay-TV providers would still have every

incentive to reach deals with broadcasters, especially the handful of them that actually offer compelling local programming. And broadcasters could avoid distant signal importation simply by agreeing not to black out their signals while negotiations are pending.

Under either form of blackout relief, **consumers would no longer be held hostage during programming disputes.** This is the single most important thing that Congress can do to protect hundreds of millions of Americans.

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On behalf of DIRECTV's more than 20 million subscribers, I would like to thank the Committee again for its hard work on STELA reauthorization. This bill presents challenges to the Committee. It also presents a real opportunity to make a difference. DIRECTV looks forward to working with you in the coming months to meet these challenges and to seize this opportunity.