

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Annual Assessment of the Status of) MB Docket No. 07-269
Competition in the Market for the)
Delivery of Video Programming)
)
)

COMMENTS



Matthew M. Polka
President and Chief Executive Officer
American Cable Association
One Parkway Center
Suite 212
Pittsburgh, Pennsylvania 15220
(412) 922-8300

Scott C. Friedman
Jeremy M. Kissel
Cinnamon Mueller
307 North Michigan Avenue
Suite 1020
Chicago, Illinois 60601
(312) 372-3930

Ross J. Lieberman
Vice President of Government Affairs
American Cable Association
4103 W Street, N.W., Suite 202
Washington, DC 20007
(202) 494-5661

Attorneys for the American Cable
Association

July 29, 2009

I. Introduction.

On behalf of more than 900 smaller and medium-sized operators, the American Cable Association (“ACA”) submits these Comments to assist the Commission with its inquiry into the status of competition in the MVPD marketplace. These Comments focus on retransmission consent questions raised in the *Supplemental Notice of Inquiry* concerning the retransmission consent process.¹

As ACA recently noted, the 2008 retransmission consent round posed far greater challenges than previous rounds for small cable operators to obtain broadcast programming at fair and reasonable prices, terms and conditions.² ACA again submits the study of ACA’s membership conducted by Clarus Research Group (“CRG”),³ and stresses that the sheer abuse of market power by powerful broadcast groups and networks raises costs for rural distributors and consumers, and impedes broadband deployment.

Moreover, with these comments, we address NAB’s descriptions of a rosy world of retransmission consent⁴ and put on the record new evidence of rising

¹ *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Supplemental Notice of Inquiry, MB Docket No. 07-269 (rel. Apr. 9, 2009) (“*Supplemental Notice*”).

² *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Notice of Inquiry, 24 FCC Rcd 750, Comments of the American Cable Association at 3 (filed May 21, 2009) (“*ACA Initial Comments*”).

³ We attach the findings and data collected by Clarus Research Group’s *Impact of Retransmission Consent Costs on Members of the American Cable Association* survey as Appendix 1.

⁴ See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Notice of Inquiry, 24 FCC Rcd 750, Reply Comments of the National Association of

retransmission consent fees. Taken together with the CRG survey results showing small cable companies bearing the brunt of these increases, this evidence gives the Commission sufficient reason to investigate retransmission consent price discrimination. With such glowing descriptions of a functional marketplace in its reply comments to the Commission's *Initial Notice*, NAB should have no objection.

American Cable Association. Small markets and rural areas across the country receive video, high-speed broadband, and phone services from more than 900 small and medium-sized independent operators represented by ACA.

ACA member operators range from family run businesses serving a single town, to multiple system operators with small systems in small markets. ACA member systems are located in all 50 states and in virtually every congressional district. More than half of ACA's members serve fewer than 1,000 subscribers.

ACA's membership is comprised of cable, phone, and fiber-to-the-home operators and municipalities, who deliver affordable basic and advanced services, such as high-definition television, next generation Internet access, and digital phone services to more than 7 million households and businesses, some of whom have no other means of receiving these vital services.

These independent cable operators face unique challenges in providing competitive video, broadband, and telephony services to smaller and rural markets. Providing advanced services in smaller and rural markets is a costly

Broadcasters at 2-9 (filed June 22, 2009) ("*NAB Reply*").

and difficult undertaking in low-density markets, as the cost of system builds and upgrades cannot be spread among a large subscriber base. This inherent difficulty is compounded by substantial discrimination in retransmission consent prices, terms, and conditions.

II. Prices, terms, and conditions for access to broadcast programming have increased substantially for small and medium-sized cable operators.

In preparing these comments, we had CRG ask ACA members to provide information about the retransmission consent market. CRG asked ACA members to report their experiences in obtaining distribution rights for broadcast programming, the rate of increase in broadcast programming fees, and the impact of those transactions on their retail offerings and rates. The responses cover a wide variety of cable operators, ranging from third-generation family-owned businesses operating single cable systems to medium-sized cable companies operating systems in several states.⁵ The survey reveals that retransmission consent practices of powerful broadcast groups and networks harm video competition and impede broadband deployment, especially in the smaller and rural markets served by ACA members. As we show in more detail below, these practices include widespread price discrimination, tying, bundling, and unconscionable increases in fees.

Retransmission consent price discrimination. Dramatic increases in

⁵ *Id.* at 10-11.

retransmission consent fees are well-documented,⁶ and, according to recent projections, will continue their meteoric rise.⁷ As projected by Kagan, retransmission consent fees will increase to \$1.2 billion by 2011, more than double the \$500 million paid in 2008.⁸ And it's even worse for small cable operators. Powerful broadcaster groups and networks leverage the popularity of their programming to discriminate against small cable operators, who must often concede to the demands of broadcasters for fear of losing this "must have" programming.

This discriminatory practice can be clearly seen when reviewing first quarter (January-March) 2009 financial reports. In comparison to ACA members reporting that total annual retransmission consent fees paid by their respective companies surged from an average of \$31,622 in 2008 to \$117,392 in 2009,⁹ an overall **271%** increase from year-to-year,¹⁰ broadcasters reported the following increases:

- **Hearst-Argyle Television, Inc.** Retransmission consent revenue increased **97.8%** to \$12.4 million.¹¹

⁶ See *ACA Initial Comments* at 12-13.

⁷ John Eggerton, *Projections Show Retrans Fees Increasing to \$1.2B by 2011*, MULTICHANNEL NEWS (July 1, 2009), available at http://www.broadcastingcable.com/article/307274-Projections_Show_Retrans_Fees_Increasing_to_1_2B_by_2011.php?rssid=20068&q=Kagan0 (last visited July 29, 2009).

⁸ *Id.*

⁹ *ACA Initial Comments* at 6; *Appendix I* at 1, 4.

¹⁰ *Id.*

¹¹ See Hearst-Argyle Television, Inc., Management's Discussion and Analysis of Financial Condition and Results of Operations, available at <http://www.marketwatch.com/story/story/print?guid=332EC2BF-4356-4C34-B1A6-AA7F5C878521>

- **LIN TV Corp.** Retransmission consent revenue increased 82% to \$8.9 million.¹²
- **Nexstar Broadcasting Group, Inc.** Retransmission consent revenues increased 42% to \$6.6 million.¹³
- **Fisher Communications, Inc.** Retransmission consent revenue increased 39% to \$973,000.¹⁴
- **Belo Corp.** Retransmission consent revenue increased 10% to \$9.7 million.¹⁵

This comparison begs the question: Why have broadcasters reported lower retransmission consent revenue gains by percentage than the percentage increases in retransmission consent fees paid by small cable operators? Because broadcasters demand and receive far greater retransmission consent fee increases from smaller operators than major MSOs.

As shown in our initial comments, and in the attached survey,

(last visited July 29, 2009).

¹² See Press Release, LIN TV Corp., LIN TV Corp. Announces First Quarter 2009 Results, available at http://www.lintv.com/investor/images/pdfs/quarterly_reports/Q1_2009_Earnings%20Release%20FINAL.pdf (last visited July 29, 2009).

¹³ See Press Release, Nexstar Broadcasting Group, Inc., Nexstar Broadcasting to Report 2009 First Quarter Results, Host Conference Call and Webcast on May 13, available at http://www.nexstar.tv/index.php?option=com_content&view=article&id=291:nexstar-broadcasting-to-report-2009-first-quarter-results-host-conference-call-and-webcast-on-may-13&catid=40:cat-newsarticles&Itemid=97 (last visited July 29, 2009).

¹⁴ See Press Release, Fisher Communications, Inc., Fisher Communications, Inc. Reports First Quarter 2009 Financial Results, available at <http://phx.corporate-ir.net/phoenix.zhtml?c=61026&p=irol-newsArticle&t=Regular&id=1281381&> (last visited July 29, 2009).

¹⁵ See Press Release, Belo Corp., Television Company Belo Corp. Reports Results for First Quarter 2009, available at <http://www.belo.com/pressRelease.x2?release=20090429-1816.html> (last visited July 29, 2009).

broadcasters have the same leverage to demand these unreasonable increases from ACA members whether the operator serves less than 500 subscribers, or more than 25,000 subscribers.¹⁶ Moreover, retransmission consent fees for ACA members have increased faster than the costs of other types of programming. According to the CRG survey results, retransmission consent fees amount to 8.03% of total video programming expenses in 2009, up from 2.40% in 2008,¹⁷ a difference of 5.63% from 2008 to 2009. Once again, the results were consistent across ACA's membership.¹⁸

The impact of this price discrimination on small and medium-sized cable operators and their customers is significant. **97%** of ACA members responding to the survey reported that rising retransmission consent costs will have a negative impact on their businesses.¹⁹ Of those respondents, **77%** indicated that rising retransmission consent costs will have a big negative impact on their businesses, while only 1% indicated that these costs will have a positive impact.²⁰ Once again, the high assessment of negative impact affects cable operators across ACA's membership.²¹ And with the new evidence that

¹⁶ *Appendix I* at 4.

¹⁷ *Id.* at 7.

¹⁸ *ACA Initial Comments* at 7; *Appendix I* at 7.

¹⁹ *Id.* at 1, 3.

²⁰ *Id.*

²¹ *Id.* at 3.

retransmission consent prices will continue to increase through 2011, we invite the Commission to investigate retransmission consent price discrimination.

Non-cash/in-kind compensation. ACA members also report that broadcast licensees and broadcast groups have increased their demands for non-cash/in-kind compensation for retransmission consent rights. We address four of the most prevalent forms of non-cash compensation below.

Multicast Feeds. ACA members report that many broadcasters require carriage of a multicast feed or feeds in addition to the broadcast station. Some broadcasters even require operators to reserve channel capacity for a multicast feed or feed not yet launched. For many small and medium-sized operators, carriage of these additional or planned channels takes up valuable bandwidth. As a result, the operator may be precluded from using limited bandwidth capacity for other purposes, such as carrying independent multichannel video programming networks, low-power broadcast stations, multicast feeds of must carry broadcast stations, or providing faster broadband speeds. With competition from DBS and telephone companies offering video programming, the inability of a small or medium-sized cable operator to deliver advanced services can have a significant impact on its ability to keep and attract new customers – especially those serving small markets or rural areas. Broadcaster demands to set aside additional bandwidth for multicast feeds can therefore be a significant consideration. According to the CRG survey, 66% of respondents reported that they are required to carry a broadcaster's multicast feed or feeds, while 40%

indicated that they are required to reserve channel capacity for a broadcaster's multicast feed or feeds in 2009.²² This is a 35% and 26% increase from 2008, respectively.²³

Tying and Bundling. For small and medium-sized cable companies, ACA members also report that tying and bundling arrangements are the rule when dealing with stations affiliated with satellite programmers. The carriage of additional non-broadcast programming networks, much like the carriage of multicast channels, places a burden on a small or medium-sized operators' bandwidth capacity. For example, a broadcaster may require a cable operator to carry a new regional sports channel that it owns as part of a retransmission consent deal. By doing so, the broadcaster increases the number of households the channel reaches, thus increasing the channel's visibility and, potentially, its value to advertisers.

As ACA noted last year, "[i]n retransmission consent, the rights to distribute the four major broadcast networks are tied or bundled with at least 35 other channels."²⁴ According to respondents in the CRG survey, 27% of respondents indicated that they were required to carry affiliated non-broadcast

²² *Id.* at 1, 5.

²³ *Id.* at 6.

²⁴ *In the Matter of Implementation Review of the Commission's Program Access Rules and Examination of Programming Tying Arrangements*, Report and Order and Notice of Proposed Rulemaking, MB Docket No. 07-198, Comments of the American Cable Association at 7-8 (filed Jan. 3, 2008).

programming networks in 2009, compared with 20% in 2008 – a 7% increase.²⁵

Advertising Time. ACA members further report that broadcast licensees and broadcast groups require them to purchase broadcast television advertising time from the broadcaster as part of their retransmission consent agreement. This allows broadcasters to increase advertising revenue in addition to the retransmission consent fees that it extracts from an operator. The CRG survey found that 9% of respondents had to purchase broadcast television advertising time from a broadcaster in 2009, compared to 8% in 2008.²⁶

Joint Marketing. Finally, ACA members report that broadcasters require cable operators to participate in joint marketing campaigns with a broadcaster, or require a cable operator to provide cross-channel cable television advertising time to a broadcaster for free or at a reduced rate as part of their retransmission consent agreement. This provides broadcasters with valuable advertising spots that it can use to highlight its own programming to an operator's customers at free or reduced costs, or to sell those advertising spots to third parties. According to the CRG survey, 17% of respondents were required to provide this type of non-cash compensation in 2009, compared with 12% in 2008.²⁷

Non-cash/in-kind compensation provides another avenue for broadcast licensees and broadcast groups to extract valuable consideration from small and

²⁵ *Appendix 1* at 4-6.

²⁶ *Id.* at 4-5.

²⁷ *Id.*

medium-sized cable operators. This form of compensation is particularly difficult for small operators that have limited bandwidth capacity. The use of scarce bandwidth capacity for multicast channels or non-broadcast programming networks limits consumer choice by hindering small operators' ability to offer new channels of interest to its subscribers and deploy advanced services, which, in turn, places small operators at a competitive disadvantage in an increasingly competitive video marketplace.

In summary, the CRG survey reveals that discriminatory retransmission consent practices by powerful broadcast groups and networks significantly harms consumers, competition, and the public interest by: (i) increasing costs for consumers, especially in the smaller and rural markets served by ACA members; (ii) undercutting smaller companies' ability to compete on price; and (iii) impeding the deployment of advanced services such as broadband in rural markets by diverting valuable resources from infrastructure investment. Therefore, these discriminatory retransmission consent practices significantly harm consumers, competition, and the public interest.

III. Despite NAB's claims to the contrary, it is well-established that broadcasters have market power over small cable companies.

A few of the assertions by NAB warrant brief responses here.

On the subject of market power over must have programming:

[T]he idea that broadcasters have undue negotiating power . . . is not grounded in any market realities or economic theory.²⁸

²⁸ NAB Reply at 8.

To the contrary, no argument can be made that small cable companies present any harmful competitive threat to stations owned by, or affiliated with, the major networks.²⁹ As the Commission observed in the *News Corp./DirecTV Order*, network stations can threaten the survival of small cable companies.³⁰ With carriage by major MSOs and DBS providing the bulk of the viewing audience, a broadcaster can withhold its signal from a small cable company with little, if any, downside. Eventually, the small cable company must acquiesce to unconscionable prices and terms or face subscriber losses. Here, the small cable company suffers far greater than the broadcaster, directly contradicting NAB's misleading assertion that broadcasters are more vulnerable to economic losses from retransmission consent disputes than MVPDs.³¹

Due to this exercise of market power, small and medium-sized cable companies face per-subscriber fees many times higher than what larger MVPDs pay for the exact same broadcast stations. As recognized by the Congressional Research Service's 2007 report on retransmission consent, broadcasters target

²⁹ No ACA member serves more than 1.5% of U.S. Television households.

³⁰ *In the Matter of General Motors Corporation and Hughes Electronic Corporation, Transferors and The News Corporation Limited, Transferee, For Authority to Transfer Control*, MB Docket No. 03-124, *Memorandum Opinion and Order*, 19 FCC Rcd. 473, ¶¶ 176, 202 (2004) (“[W]e agree with commenters who contend that carriage of local television broadcast station signals is critical to MVPD offerings.”) (“[W]e agree with ACA to the extent that it argues that small and medium-sized MVPDs may be at particular risk of temporary foreclosure strategies aimed at securing supra-competitive programming rate increases for ‘must have’ programming. . .”).

³¹ *NAB Reply* at 13-14.

vulnerable small systems for substantially higher retransmission consent fees.³²

Why? Because they can use their market power to do so. As stated by Les

Moonves, CEO of broadcaster and programmer CBS, Inc.:

“Try running a cable operation without the Super Bowl, the Grammys, CSI, the Final Four, Survivor, David Letterman.”³³

With the recent Kagan study pegging retransmission consent fees to increase to \$1.2 billion by 2011,³⁴ the time is ripe for the Commission to investigate retransmission consent price discrimination. Since NAB believes that broadcasters do not wield market power, it should have no objection to such an investigation.

On the subject of the state of retransmission consent:

The retransmission consent regime is not broken or in need of reform.³⁵

* * * *

None of the agreement terms ACA complains about demonstrate any

³² Charles B. Goldfarb, *CRS Report for Congress, Retransmission Consent and Other Federal Rules Affecting Programmer-Distributor Negotiations: Issues for Congress*, at 10, 13 (July 9, 2007) (“Content providers and programmers are taking advantage of structural market changes favorable to them to pressure MVPDs to make cash payments for programming that until now was available either for free or for non-cash considerations (or, where cash payments have been made in the past, to make higher cash payments). Some MVPDs have had sufficient countervailing market power to resist, or limit these changes...” (“[B]roadcasters increasingly are using the statutory retransmission consent requirement to demand cash payment from small cable companies who could lose subscribers to the satellite providers and new telephone entrants if they reach an impasse with the broadcaster and can no longer carry the local broadcast signals.”).

³³ *In the Matter of Implementation Review of the Commission’s Program Access Rules and Examination of Programming Tying Arrangements*, Report and Order and Notice of Proposed Rulemaking, MB Docket No. 07-198, Reply Comments of the American Cable Association at 23 (filed Feb. 12, 2008), *citing* John Higgins, *CBS Braces for Cable Showdown*, BROADCASTING AND CABLE, Mar. 27, 2006 (emphasis added).

³⁴ See *supra* note 6.

³⁵ *NAB Reply* at 8.

problems with retransmission consent.³⁶

Broadcasters exploit the competitive imbalance between small cable companies and major MSOs and DBS to extract egregious prices, terms and conditions from these smaller cable systems.

As we stated in our initial comments, non-cash/in-kind compensation provides another avenue for broadcast licensees and broadcast groups to extract valuable consideration from small and medium-sized cable operators.³⁷ With their market power, broadcast licensees and broadcast groups can discriminate against small and medium-sized cable operators, forcing these small cable companies to carry programming on far more onerous terms than the large MSOs and DBS. This increases costs for consumers, harms competition, and impedes broadband deployment, especially in rural markets. It is unquestioned that these are substantial public interest harms.

IV. Conclusion

Small and medium-sized operators continue to face difficulty obtaining broadcast programming at reasonable prices, terms and conditions. As retransmission consent costs continue their meteoric rise, these costs increasingly constrain these companies from offering customers a good value. Moreover, these increased costs inhibit broadband deployment in the smaller and rural markets ACA members serve. The Commission should consider

³⁶ *Id.* at 9.

³⁷ ACA Initial Comments at 7-11.

closely the impact of retransmission consent regulations on consumers and independent cable operators' ability to compete in a competitive marketplace, and should act where necessary.

Respectfully submitted,

AMERICAN CABLE ASSOCIATION



By: _____

Matthew M. Polka
President and Chief Executive Officer
American Cable Association
One Parkway Center
Suite 212
Pittsburgh, Pennsylvania 15220
(412) 922-8300

Scott C. Friedman
Jeremy M. Kissel
Cinnamon Mueller
307 North Michigan Avenue
Suite 1020
Chicago, Illinois 60601
(312) 372-3930

Ross J. Lieberman
Vice President of Government Affairs
American Cable Association
4103 W Street, N.W., Suite 202
Washington, DC 20007
(202) 494-5661

Attorneys for the American Cable
Association

July 29, 2009

Appendix 1

Impact of Retransmission Consent Costs On Members of the American Cable Association

SURVEY FINDINGS May 2009

Survey Conducted by Dr. Ron Faucheux, President, Clarus Research Group

Purpose of the Survey

To measure the impact of retransmission consent costs on members of the American Cable Association, the ACA retained Clarus Research Group to conduct an independent survey of the group's membership.

Key Findings

- Based on the survey's results, the increased burden of retransmission consent costs that went into effect after 2008 has been sizeable. Furthermore, the bulk of those increased costs are likely to be passed onto cable television customers.
- Ninety-seven percent of the survey's respondents reported that rising retransmission consent costs will have a negative impact on their businesses and only 1 percent reported that these costs will have a positive impact. Fully 77 percent said the negative impact will be "big" and 20 percent said it will be "small." The high assessment of negative impact was across-the-board, affecting cable operators of all sizes.
- The average payment in retransmission fees to all broadcasters reported by ACA members surveyed was \$31,622 for calendar year 2008, with the expected average payment rising to \$117,392 in calendar year 2009. This represents an average increase of 271 percent.
- In addition to retransmission consent fees paid in cash to broadcasters, ACA members report sharp increases in non-cash/in-kind compensation provided to broadcasters as part of their retransmission consent deals in 2009 over 2008. For example, 66 percent of survey respondents reported that their companies will have to carry broadcaster's multicast feeds in 2009, as compared to 31 percent in 2008, as a result of these deals.
- ACA members report that the proportion of their total video programming expenses that is attributable to retransmission consent fees will increase by 235 percent between 2008 and 2009.

- Eighty-eight percent of ACA members report that they have already, or plan to, increase cable rates on “basic service packages” this year because of their new retransmission consent deals.

Survey Methodology

The confidential survey questionnaire was sent to all ACA members by Clarus two ways: On April 14, 2009, via e-mail and on April 20, 2009, via postal mail. Survey respondents were given a return date deadline of May 1, 2009.

The total number of completed surveys = 246, for a response rate of 27 percent. One hundred and forty-nine surveys were completed online and returned via e-mail and 97 surveys were completed on a printed questionnaire and returned via postal mail.

Seventeen questionnaires were returned via postal mail after the deadline and were not counted.

All surveys were received, handled and tabulated by Clarus Research Group, its staff and subcontractors.

Topline results from the survey are presented and tabulated by the size of the cable companies surveyed by number of video subscribers. In addition, results are tabulated to display differences between companies with less than 1,000 subscribers (N=88), 1,000 to 4,999 subscribers (N=97), and 5,000 or more subscribers (N=61). Also, results are tabulated to display results from both ends of the company size spectrum: the smallest companies (those with less than 500 subscribers, N=50) and the largest companies (those with 25,000 or more subscribers, N=17).

Clarus Research Group is a nonpartisan survey research firm based in Washington, D.C. with a broad client list of businesses, nonprofits, trade associations and professional societies.

ACA_MemberSurvey_TOPLINE_May 21
09.doc
Date: May 21, 2009
Contact: *Ron Faucheux or Brynna McCosker*



N = 246 ACA Members
Field Dates: April 14th – May 1st, 2009

1. How many total video subscribers does your company serve?

Less than 1,00035%
1,000 to 4,99939%
5,000 or more25%

Less than 50020%
25,000 or more7%

2. How have rising retransmission consent costs affected your business?

	All	Less than 1,000 subs	1,000 to 4,999 subs	5,000 subs or more	Less than 500 subs	25,000 subs or more
They have had a big negative impact	77%	76%	77%	80%	76%	76%
They have had a small negative impact	20%	22%	21%	18%	20%	18%
They had had no impact	1%	1%	--	--	2%	--
They have had a small positive impact	--	--	--	--	--	--
They have had a big positive impact	1%	--	2%	2%	--	6%

3. How much did your company pay in total in retransmission fees to all broadcasters for the entire 2008 year, and how much do you anticipate paying in total in 2009?

MEAN	All	Less than 1,000 subs	1,000 to 4,999 subs	5,000 subs or more	Less than 500 subs	25,000 subs or more
Total dollar amount 2008	\$31,622	\$6,342	\$14,405	\$99,020	\$1,243	\$333,845
Total dollar amount 2009	\$117,392	\$32,693	\$45,873	\$396,063	\$4,081	\$1,029,251
Calculated Shift from 2008 to 2009	+271%	+415%	+218%	+299%	+228%	+208%

4. In addition to paying any retransmission consent fees, what other non-cash/in-kind compensation did your company provide to a broadcaster in 2008 as part of your retransmission consent deals? Also, what do you have to provide this year? (*Please check ALL that apply.*)

YEAR 2008

Non-cash/In-kind compensation	All	Less than 1,000 subs	1,000 to 4,999 subs	5,000 subs or more	Less than 500 subs	25,000 subs or more
My company must carry a broadcaster’s multicast feed(s).	31%	21%	32%	41%	24%	65%
My company must reserve channel capacity for a broadcaster’s multicast feed(s) yet to be launched.	13%	9%	11%	23%	10%	41%

My company must carry nonbroadcast programming networks affiliated with the owner of a broadcaster.	20%	16%	19%	31%	12%	59%
My company must purchase broadcast TV advertising time from a broadcaster.	8%	4%	4%	18%	6%	47%
My company must participate in a joint marketing campaign with a broadcaster, and/or provide cross channel cable TV advertising time to a broadcaster for free or at a reduce rate.	12%	3%	6%	36%	2%	71%

YEAR 2009

Non-cash/In-kind compensation	All	Less than 1,000 subs	1,000 to 4,999 subs	5,000 subs or more	Less than 500 subs	25,000 subs or more
My company must carry a broadcaster’s multicast feed(s).	66%	61%	64%	90%	46%	94%
My company must reserve channel capacity for a broadcaster’s multicast feed(s) yet to be launched.	40%	31%	36%	69%	20%	82%
My company must carry nonbroadcast programming networks affiliated with the owner of a broadcaster.	27%	22%	22%	46%	18%	47%
My company must purchase broadcast TV advertising time from a broadcaster.	9%	1%	5%	28%	--	59%
My company must participate in a joint marketing campaign with a broadcaster, and/or provide cross channel cable TV advertising time to a broadcaster for free or at a reduce rate.	17%	8%	11%	46%	2%	71%

CALCULATED SHIFT FROM 2008 to 2009

Non-cash/In-kind compensation	All	Less than 1,000 subs	1,000 to 4,999 subs	5,000 subs or more	Less than 500 subs	25,000 subs or more
My company must carry a broadcaster’s multicast feed(s).	+35%	+28%	+32%	+49%	+22%	+29%
My company must reserve channel capacity for a broadcaster’s multicast feed(s) yet to be launched.	+26%	+15%	+25%	+46%	+10%	+41%
My company must carry nonbroadcast programming networks affiliated with the owner of a broadcaster.	+7%	+7%	+3%	+15%	+6%	-11%
My company must purchase broadcast TV advertising time from a broadcaster.	+2%	-2%	+1%	+10%	-5%	+12%
My company must participate in a joint marketing campaign with a broadcaster, and/or provide cross channel cable TV advertising time to a broadcaster for free or at a reduce rate.	+4%	--	+5%	+10%	--	--

5. What percentage of your total video programming expenses did your total retransmission consent fees constitute in 2008? Also, what percentage of your total video programming expenses do you anticipate that these fees will constitute in 2009?

MEAN	All	Less than 1,000 subs	1,000 to 4,999 subs	5,000 subs or more	Less than 500 subs	25,000 subs or more
Total % 2008	2.40%	2.65%	2.73%	1.02%	3.00%	1.62%
Total % 2009	8.03%	8.00%	8.95%	6.65%	7.66%	5.29%
Calculated Shift from 2008 to 2009	+5.63%	+5.35%	+6.22%	+5.63%	+4.66%	+3.67%

6. Have you already, or do you have plans to, increase cable rates on any of your **basic service** packages this year because of your new retransmission consent deals?

	All	Less than 1,000 subs	1,000 to 4,999 subs	5,000 subs or more	Less than 500 subs	25,000 subs or more
Yes	88%	91%	85%	89%	90%	88%
No	11%	8%	14%	11%	8%	12%

7. During your 2008-2009 retransmission consent negotiations with broadcasters, at any point were you forced to temporarily drop a broadcast station, whether for hours, days, or weeks, because your old agreement expired and you hadn't reach a new agreement?

	All	Less than 1,000 subs	1,000 to 4,999 subs	5,000 subs or more	Less than 500 subs	25,000 subs or more
Yes	20%	19%	16%	28%	20%	53%
No	80%	81%	84%	72%	80%	47%

8. Did your 2008-2009 retransmission consent negotiations with broadcasters cause you to decide to permanently drop a broadcast station after the old agreement expired because, in your judgment, the broadcaster was asking for unreasonable prices, terms, and/or conditions?

	All	Less than 1,000 subs	1,000 to 4,999 subs	5,000 subs or more	Less than 500 subs	25,000 subs or more
Yes	35%	35%	31%	48%	34%	53%
No	65%	65%	69%	52%	66%	47%

9. How many television markets (DMAs) does your company serve?

	All	Less than 1,000 subs	1,000 to 4,999 subs	5,000 subs or more	Less than 500 subs	25,000 subs or more
One	76%	65%	79%	56%	88%	47%
Two	14%	21%	15%	18%	10%	12%
Three or more	10%	14%	5%	26%	2%	41%