RETRANSMISSION CONSENT

Local television stations should be allowed to continue congressionally approved free market negotiations for their programs in order to preserve consumer access to free, off-air television and local broadcast news on all media platform.

Since enactment of the 1992 Cable Act, local broadcasters have had the right to negotiate with cable, satellite and other platforms for the retransmission of their broadcast content over these systems. In other words, local broadcasters enjoy the same rights as any other programmer. Prior to 1992, local stations could not negotiate with cable systems that retransmitted their programs. Cable operators, satellite providers and other platforms could take local broadcast programs for next to nothing under the copyright law and resell these programs to consumers at high prices as part of a pay-TV system.

The revenues obtained from these free market retransmission consent negotiations are essential to fund vital broadcast operations, including local news and providing emergency information, Moreover, these revenues are critical for stations to compete in a highly competitive market for sports and entertainment programs.
New Yorkconsumers benefit directly from these negotiations because the revenues help preserve the free TV option. Approximately 1.25 million New Yorkers rely exclusively on an antenna to receive local TV signals. Even homes that subscribe to pay services often rely on antenna service. Nearly one third of all television sets receive signals with an antenna. As Hurricane Irene demonstrated, access to antenna TV is vital, as cable and other pay systems ceased to function in flood ravaged areas. Absent revenues from retransmission consent,New York consumers relying on free over the air antenna TV would lose access to local news, emergency information and top quality entertainment and sports programs.

New York's pay TV subscribers benefit directly from free market retransmission negotiations. Revenues fund local news and popular entertainment programs. During the 2010-11 television seasons, broadcast shows dominated the primetime program rankings, accounting for 95 of the top 100 programs, Retransmission consent revenues allow pay TV subscribers to access multiple local newscasts from multiple broadcast stations in a market. Absent this revenue, many stations may not be able to afford these new operations, thereby decreasing dramatically the amount of local news that is available on pay TV systems.

When compared to other cost elements, fees paid for local broadcast programs are not responsible for increased rates. The retransmission cost of local broadcast programming amount to less than 2% of a cable operator's expenses. Despite this relatively low cost, broadcast programming has average ratings six times higher than cable programming, cable-owned programming receive compensation 10 times higher than broadcast TV. According to SNL Kagan, the average profit margin of a cable network was 41%. In 2011, cable networks with their extraordinary high margins receive $26.8 billion in programming fees, compare to $1.47 billion for broadcasters. Asking pay-TV companies to compensate local stations, as they do other content providers, is simply a matter of fairness — especially considering that costs to retransmit broadcast programming account for only two cents of every dollar of cable revenues.

Pay-TV companies would like to return to an era when they did not have to negotiate with local stations and have tried to claim that the retransmission consent process is broken. However, the current process provides incentives for both parties to come to mutually beneficial arrangements. Broadcasters want to be included on pay-TV platforms that expose them to broad audiences, and pay-TV providers need the very popular content from local broadcasters.
The system envisioned by Congress 20 years ago has worked well. The overwhelming majority of retransmission consent negotiations proceed smoothly as both broadcasters and pay services negotiate consistent with market forces. A *New York Times* article noted that "[T]here were almost no reports of station blackouts. In fact, the most significant negotiation problem occurred between a cable operators and the Madison Square Garden Network, a pay cable sports channel.

Television broadcasting is important to New York's economy. A recent economic analysis by Woods and Poole found that the total economic impact, both direct and indirect, of television broadcasting inNew York was $49 billion. In addition, broadcast television was responsible, both directly and indirectly, for nearly 95 thousand jobs.

Congress and the FCC should allow broadcasters and Pay-TV operators to continue to conduct private, market-driven negotiations for retransmission consent and avoid tilting the scales in favor of either party.