

*Responses from Marci Burdick to questions submitted subsequent to the
March 12, 2014 hearing entitled,
“Reauthorization of the Satellite Television Extension and Localism Act”*

To the Honorable Greg Walden

Please describe the difference, if any, between the operation and impact of MVPD “interconnects” mentioned in your testimony and broadcaster JSAs. Please detail both the impact on buyers of local advertising as well as the impact on competitors in the sale of local advertising.

As stressed in my testimony, broadcasters are concerned about the vastly different regulatory treatment of “interconnects” among MVPDs, including the largest cable, telco and satellite providers, and joint sales agreements (JSAs) between two local broadcast TV stations. Earlier this year, the Federal Communications Commission (FCC) determined to essentially prohibit agreements between two TV stations in the same market for the joint sale of advertising time, but did not similarly prevent – or restrict in any way – agreements between multiple MVPDs for the joint sale of advertising time in local markets.

While ignoring MVPD interconnects, the FCC prohibited virtually all future – and required the “unwinding” of long-established – TV station JSAs based on out-of-date and unproven assumptions about competition in local video markets. In fact, a recent study submitted to the FCC by Drs. Hal J. Singer and Kevin W. Caves of Economists Incorporated found *no* empirical evidence that local TV broadcasters charge higher advertising prices in markets where there are joint arrangements or common ownership of TV stations. In fact, they found some evidence that markets with joint arrangements have advertising prices some 16 percent lower than other markets, suggesting that these arrangements benefit advertisers and consumers.

The Honorable Anna Eshoo

A vibrant democracy requires many voices speaking to the many. In your testimony, you justify Joint Sales Agreements by saying that they’re used to put increased ad revenue back into the local community. How do you respond to Mr. Wood’s testimony that there are 229 stations participating in JSAs that air none of their own news programming and 28 percent of those stations air no news or public affairs programming at all?

As an initial matter, NAB is not aware of the source of Mr. Wood’s information and cannot confirm the data cited in his testimony. We also generally observe that the airing of local news – or any other one type of programming – is not the only way for stations to serve their

communities. Other types of programming, including, for example, foreign language and other minority-focused programming, religious programming, local college or high school sports, or other community-focused programming clearly serve viewers as well. Consumers today in local markets are best served by broadcast stations offering a wide variety of national and local programming that interest a range of viewers.

More specifically, NAB has shown, in numerous submissions to the FCC, the high level of resources needed for TV stations to establish and maintain local news operations and the financial struggles faced by many stations in medium and small markets, which have much more restricted revenue opportunities. This data and evidence show that prohibiting joint arrangements by local stations will in fact hurt local news production by making it economically unviable for many stations, especially in smaller markets, which, as the FCC has recognized, are less able to support multiple local TV news operations.

Indeed, a number of TV stations in smaller markets ranging from Eureka, CA to Burlington, VT, were financially unable to air local news until they formed a joint arrangement with another local station. NAB additionally notes that, while some continue to criticize TV stations in JSAs for not airing their “own” news programming, they ignore the fact that, in many cases, at least one (and sometimes both) of the stations in these joint arrangements did not air any local news programming at all before entering into the joint arrangement, due to their lack of resources and inability to take advantage of economies of scale.

In other markets, JSA/SSA arrangements have strengthened news programming. A good example is the JSA/SSA between Schurz’ station KYTV, Springfield, Missouri, and KSPR-TV in the same market, licensed to Perkin Media. Before we entered into the agreement with KSPR, its news operations were hampered by inadequate resources and its news programs had little if any measurable audience. KSPR’s news is now produced in a separate, state-of-the-art newsroom. KSPR and KYTV not only have two separate newsrooms; there are two independent news directors as well. KSPR’s improved news programs now attract a large audience in the market. The station has won major news awards, and its closed captioning was the model that the FCC recently adopted when it updated its captioning rules.

In Augusta, Georgia, where Schurz owned a market-trailing NBC affiliate, we were forced to contemplate giving up local news altogether. Instead, we entered into a JSA/SSA with Media General, which resulted in construction of a new studio facility and the news on Schurz’ WAGT has not only continued; it is much improved in quality. In Wichita, Kansas, Schurz station KWCH-DT has a JSA/SSA with Entravision’s KDCU-DT. Schurz produces for broadcast on Univision affiliate KDCU a weekday hour-long Spanish-language local newscast. It is the only local Spanish-language newscast in the State of Kansas. Entravision has stated to the FCC that, without the JSA/SSA with Schurz, it would be impossible for it to provide local news on this station.

Although not every JSA/SSA arrangement may have produced the same level of improved news programming, we think that the impact of these arrangements in general has strengthened

news in multiple markets across the country, adding to the diversity of information available to the public.

The Honorable Henry Waxman

Chairman Walden's discussion draft includes a provision that would allow pay TV providers to choose to negotiate jointly with multiple broadcasters for retransmission consent. My staff has spoken to numerous pay TV companies both large and small and we have yet to identify a distributor that says they want to do business this way. Have you engaged in voluntary joint retransmission consent negotiations on behalf of more than one broadcast station? Have you negotiated with distributors who tell you they prefer to do retransmission consent deals this way?

Schurz Communications' KYTV in Springfield, Missouri, has a joint sales agreement and shared services agreement with KSPR-TV, the ABC affiliate in Springfield, Missouri, which is owned by Perkin Media, LLC. Under those agreements, KYTV has assisted KSPR-TV in its negotiation of retransmission consent with many multi-channel video programming distributors (MVPDs), including both local companies and satellite distributors. In several instances, we have asked MVPDs if they would prefer to include the rights to distribute KSPR-TV in their negotiations with KYTV or Schurz, and with the one exception described below, they have invariably responded that they would prefer to negotiate for both stations.

In 2008, shortly after the relationship with Perkin Media was formed, one cable company objected to negotiating with KYTV for both stations. We immediately asked Perkin Media to contact that cable operator directly to negotiate a separate retransmission consent agreement. In 2011, when KYTV contacted the cable operator – which is one of the most vociferous of the MVPDs complaining to Congress and the FCC about joint negotiation of retransmission consent agreements – about a new agreement, KYTV told the cable operator that Perkin Media would contact it directly about an agreement for KSPR-TV. The cable operator asked if KYTV could negotiate for both stations since, in its view, doing it the other way would be inefficient.

Schurz' station WAGT, Augusta, Georgia, obtains services from Media General's WJBF-TV in Augusta. Media General has negotiated several retransmission consent agreements for both stations. To our knowledge, no MVPD has objected to joint negotiations or requested separate negotiations.