Protect TV Viewers and Allow Broadcasters to Continue Negotiating in the Free Market

- Television viewers rely on local television broadcast programming for their local news, emergency updates and entertainment. It is available to everyone, both free with an antenna and through pay-TV services, such as cable and satellite.
- Congress recognized long ago the value of local broadcast signals. The 1992 Cable Act included the right for local television broadcasters to negotiate with cable operators in a free market for use of stations' signals, known as retransmission consent.
- Prior to this law, cable operators used broadcast signals without stations' consent and resold the signals, making millions. In short, broadcast programming subsidized cable.
- Eliminating broadcasters' ability to negotiate for the value of broadcast signals would mean less choice for viewers and fewer resources for stations to dedicate to local news, public affairs programming, coverage of emergency weather events and community activities.
- Legislation that governs the retransmission of broadcast signals by satellite television operators, called the Satellite Television Extension and Localism Act (STELA), expires at the end of this year.
- Your local TV stations support a clean extension of the STELA legislation. While some pay-TV companies want to add unrelated and controversial provisions to undermine retransmission consent, STELA should not give pay-TV companies a regulatory advantage in free-market retransmission consent negotiations.
- Legislation introduced this Congress – H.R. 3719 and H.R. 3720 – would drastically and fundamentally alter TV carriage laws like retransmission consent. These bills jeopardize viewer access to quality local news, entertainment, sports and lifesaving weather warnings. NAB strongly opposes these bills.
- Congress 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.

Will you commit to supporting a clean STELA bill and oppose bills or amendments that would weaken the current, free-market retransmission consent system?

Oppose a Performance Tax on Local Radio Broadcasters

- For several years, the recording industry has lobbied Congress to adopt legislation that would impose a devastating new fee, or performance tax, paid to performers and big record labels, on local radio stations simply for playing music on the radio.
- This Congress, former Rep. Mel Watt (NC-12) introduced H.R. 3219, the Free Market Royalty Act, legislation that would similarly levy a new fee on local radio stations for airing music free over-the-air. New Ranking Member Jerrold Nadler (NY-10) recenty announced his intent to craft similar legislation.
- A performance tax would financially hamstring local radio stations, stifle new artists and harm the listeners who rely on local radio.
- The value of local radio to record labels and performers is well recognized. For more than 80 years, free radio airplay has provided the recording industry unparalleled visibility and record sales.
- Local radio touches nearly 242 million Americans each week, a number that dwarfs the reach of Internet and satellite radio.
- Fortunately, Congress has long recognized the inherent value of free radio promotion for record labels and performers and has repeatedly declined to impose a performance tax on radio broadcasters.
- Reps. Mike Conaway (TX-11) and Gene Green (TX-29) have introduced H. Con. Res. 16, the Local Radio Freedom Act, a resolution opposed to any new performance tax on free broadcast radio. A companion resolution, S. Con. Res. 6, is sponsored by Sens. Heidi Heitkamp (ND) and John Barrasso (WY). These bills are supported by more than 200 bipartisan lawmakers.
- Recent private agreements between individual broadcasters and record labels that compensate artists for both Internet and over-the-air play demonstrate that this issue is more appropriately addressed through individual marketplace agreements than a one-size-fits-all government mandate.

Will you cosponsor the Local Radio Freedom Act and stand with your local broadcasters in opposing a congressionally-mandated performance tax on radio stations?

Oppose Reforms to the Tax Treatment of Advertising Costs

- As Congress contemplates changes to the Tax Code, it may consider limiting the ability of businesses to deduct the full cost of advertising as an ordinary and necessary business expense.

- Limiting the deductibility of advertising would create a disincentive for businesses to advertise their goods and services. Advertising revenue is critical to local TV and radio stations that rely on local and national advertising dollars to deliver vital news, emergency information and high-quality entertainment to their local communities.

- Moreover, advertising stimulates sales and jobs in the U.S. economy. In 2012, advertising supported $5.8 trillion of total economic output and 21.1 million jobs in the U.S., according to a study by economic consulting firm IHS Global Insight, Inc. The study also revealed that every dollar of ad spending generates approximately $22 of economic activity.

- Legislation that could reduce incentives for advertising would be detrimental to broadcasters' ability to continue to reinvest in their local communities, since many broadcasters rely on advertising as their sole source of revenue.

- Advertising revenue is critical to our country's economic recovery. In these challenging economic times, advertising should not be made more costly because it would not only harm local broadcasters, but also the companies in local communities that rely on broadcasting to advertise their business.

Will you oppose any proposal that limits the deductibility of advertising costs that would harm free, local broadcast television and radio stations?

Allow Broadcasters to Continue Negotiating in the Free Market

American television viewers rely on local broadcast TV programming for their local news, emergency updates and entertainment. It is available for free to everyone with an antenna or through pay-TV services, such as cable and satellite. Local stations are by far the most in-demand channels on every pay-TV package sold, and in an average week, broadcast programming accounts for well over 90 of the top 100 most-watched programs on television.

In fact, while broadcast programming attracts 35 percent of the viewing audience on a cable or satellite system, broadcasters only receive approximately 7 percent of the money a cable or satellite system pays for programming. Cable and satellite systems benefit from the ratings broadcast programming provides and broadcasters should have the opportunity to negotiate fair payment for that programming, without government intrusion.

Congress recognized long ago the value of these local broadcast TV signals. The 1992 Cable Act included the right for local television broadcasters to negotiate contracts with cable operators in a free market for use of stations' signals (known as retransmission consent). Prior to this law, cable operators used broadcast signals without stations' consent and resold the signals, making millions of dollars. In short, broadcast programming subsidized cable.

On December 31, 2014, the Satellite Television Extension and Localism Act (STELA), a reauthorization of laws specific to satellite television pay-TV services, will expire. This legislation, and previous versions of it, reaffirm the value of local broadcast TV signals and also a broadcaster's right to be fairly compensated for the retransmission of their signal by a satellite television operator. Pay-TV companies, however, would like to change STELA by including unrelated and controversial provisions that would dismantle retransmission consent.

Local television stations support a clean reauthorization of the STELA legislation. Chairman of the House Communications and Technology Subcommittee Greg Walden (OR-2), announced last December that he does not intend to make any major revisions to the Communications Act through STELA legislation. However, there are bills that would harm a broadcaster's ability to receive fair compensation through the retransmission consent process.

- On December 12, 2013, Rep. Steve Scalise (LA-1) reintroduced The Next Generation Television Marketplace Act, H.R. 3720. This legislation would remove important and fundamental television carriage laws, including retransmission consent, which are at the core of the local broadcasting model. Rep. Scalise has publicly stated that he will attempt to include provisions of his legislation into a STELA reauthorization. If successful, these attempts would drastically weaken the free-market retransmission consent negotiations system that broadcasters and pay-TV operators currently use.

- Also on December 12, 2013, Rep. Anna Eshoo (CA-18) introduced H.R. 3719, the Video CHOICE (Consumers Have Options in Choosing Entertainment) Act, which would give the Federal Communications Commission (FCC) greater authority to inject itself into the private retransmission consent negotiations that occur between broadcasters and pay-television providers. This bill would allow the FCC to require a broadcaster to provide its programming to a pay-television provider even if there is no contract between the broadcaster and pay-TV provider, or no agreement on new contractual terms. These interventionist ideas undermine the ability of a broadcaster to seek reasonable compensation for its programming since it removes any incentive for the pay-TV provider to offer fair value.

NAB strongly opposes both of these bills.

Asking pay-TV companies to compensate local stations, as they do other content providers, is simply a matter of fairness – especially considering that the cost to retransmit broadcast signals only accounts for two cents of every dollar of cable revenue. 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.

Retransmission consent compensation enables broadcasters to deliver free and locally-focused programming and services. Broadcasters continue to reinvest those revenues in local news and coverage. Eliminating broadcasters' ability to negotiate for the value of broadcast signals would mean less choice for viewers and fewer dollars for stations to dedicate to local news, public affairs programming, coverage of emergency weather events and community activities. It would also put at risk the community-based information and entertainment medium that serves tens of millions of Americans each day and results in nearly 700,000 jobs across the country.

Will you commit to supporting a clean STELA bill and oppose bills or amendments that would weaken the current, free-market retransmission consent system?

Strong Congressional Oversight is the Key to a Successful FCC Voluntary Incentive Auction

The Spectrum Act, which was passed as part of the Middle Class Tax Relief and Job Creation Act of 2012, established the first-ever Federal Communications Commission (FCC) broadcast incentive auction. This auction was designed to allow television broadcasters who voluntarily choose to sell their spectrum, to exit the industry. That spectrum will then be sold to wireless carriers and the auction proceeds will be spent on the creation of a public safety network and reducing the budget deficit.

The actual impact of the incentive auction on television viewers and stations will largely depend on how the FCC implements the law. As a result, more than 150 bipartisan members of Congress have voiced concerns in letters to the FCC, urging the Commission to protect local television stations and their viewers. (See attached letters)

As the Commission gets closer to finalizing its rules and regulations governing the auction, it is imperative that Congress continue to closely monitor the FCC's progress. A number of key issues are still unresolved that could lead to significant loss of television service to your constituents. Those issues include:

- **Get Border Coordination with Canada and Mexico Right**: As a result of long-standing agreements with Canada and Mexico, and in order to prevent interference of television signals across borders, the U.S. cannot relocate TV stations without going through a formal consultation process to determine what frequencies are available for use in each country. In order to maximize the odds for a successful auction, the FCC should finalize its talks with our neighbors as soon as possible and prior to the incentive auction. If the FCC were to proceed to relocate U.S. television stations without an agreement in place, it could leave television viewers in the U.S. without their favorite broadcast channels. Because of the importance of international coordination, the FCC must reach some agreement with Canada and Mexico prior to the auction to avoid loss of television service for viewers along the northern and southern U.S. borders.

- **Protect Viewers in Rural America By Preserving Low-Power TV (LPTV) and Translators**: Although not formally protected in the Spectrum Act, if the FCC relocates stations too aggressively, thereby eliminating LPTV and translator services, viewers in rural America could lose access to television programming. LPTV stations and translators are used throughout mountainous and rural parts of the country to ensure robust signal coverage. While Congress directed the FCC to "make all reasonable efforts" to protect a television station's signal contour, some have argued that the FCC does not need to factor in the translators that broadcasters use as part of signal distribution. If the FCC were to aggressively relocate TV stations in rural areas and ignore the integral role of translators, hundreds of thousands of rural viewers in communities across the country could lose access to broadcast television.

- **Keep "Voluntary" Voluntary**: Congress provided a clear directive in the Spectrum Act: The incentive auction must be *voluntary*. "Voluntary" means that no broadcaster, by any means, can or should be coerced into participating in the auction. The FCC cannot, under the law, take any action designed to harm broadcasters with an eye towards encouraging participation in the auction. The only incentive Congress envisioned for auction participation was the market-based auction itself, and the compensation broadcasters are offered to relinquish their licenses. Strong congressional oversight of the FCC's incentive auction process will ensure that "voluntary" truly means voluntary.

Will you monitor the progress of the FCC's broadcast incentive auction and exercise strong congressional oversight to ensure broadcast TV viewers and local TV stations do not lose service?

Oppose a Performance Tax on Local Radio Broadcasters

At the behest of the big record labels, legislation was introduced this Congress to impose a new performance fee, or tax, on local radio stations. H.R. 3219, the Free Market Royalty Act, would impose a devastating new tax, paid to performers and big record labels, on local radio stations simply for airing a song on the radio – airplay that provides free promotion to the labels and artists. A performance tax could financially cripple local radio stations and put jobs at risk, stifle new artists trying to break into the recording business and harm the listening public who relies on local radio.

The value of free radio promotion to record labels and performers is well recognized. For more than 80 years, record labels and performers have thrived from radio airplay – which provides free promotion for their music, concerts and merchandise. Free local broadcast radio touches nearly 242 million listeners a week, a number that dwarfs the reach of both Internet and satellite radio.

Today, the big record labels find themselves struggling because they have failed to adapt their business model to the digital age. As a result of these financial struggles, they seek to recoup revenues on the backs of local radio stations that are, ironically, their greatest promotional tool. Contrary to its supporters' representations, the performance tax is less about establishing a free market to compensate artists and more about rewarding the record labels by funneling potentially billions of dollars to these companies – nearly all of which are based overseas. In actuality, under the Free Market Royalty Act, 50 percent of the fee would go straight into the pockets of the record labels, and broadcasters would be forced to negotiate with a single monopoly entity – SoundExchange – that would control the rights to every song.

Reps. Mike Conaway (TX-11) and Gene Green (TX-29) have introduced H. Con. Res. 16, the Local Radio Freedom Act, a resolution opposed to any new performance tax on free broadcast radio. A companion resolution, S. Con. Res. 6, is sponsored by Sens. Heidi Heitkamp (ND) and John Barrasso (WY). These bills are supported by more than 200 bipartisan lawmakers.

NAB continues to oppose any congressionally-mandated performance tax, yet remains open to continued good faith discussions with the music industry to resolve this issue. Some recent private agreements between individual broadcasters and record labels compensate artists for both Internet and over-the-air play. These private agreements demonstrate that this issue is more appropriately addressed through individual marketplace agreements than a one-size-fits-all government mandate.

The existing system is the epitome of fairness for all parties: free play in exchange for free promotion. It has allowed American music and the recording industry to thrive, and has allowed local radio broadcasters to better serve their communities.

Will you cosponsor the Local Radio Freedom Act and stand with your local broadcasters in opposing a congressionally-mandated performance tax on radio stations?

Oppose Reforms to the Tax Treatment of Advertising Costs

As Congress considers legislation to reform the Tax Code, it may examine proposals that limit the ability of businesses to deduct the full cost of advertising. For nearly 100 years, businesses have been able to deduct the full cost of advertising as an ordinary and necessary business expense in the year the expense was incurred to the benefit of businesses, consumers and the economy. Changes to this current system could have a devastating impact on radio and TV broadcasters, as well as the U.S. economy as a whole.

Tax reform proposals distributed by the House and Senate tax writing committees would limit the immediate deductibility of advertising costs. Both proposals would require businesses to amortize a portion of their advertising costs over a multi-year period. As a result, advertising would suddenly become more costly for businesses.

Limiting the deduction for the cost of advertising would effectively impose a new tax on businesses, increasing the cost of advertising and thereby reducing the amount of advertising that businesses can purchase. This would be devastating for businesses that rely on advertising revenue – such as your local television and radio stations.

The impact of any proposal to limit advertising deductibility has the very real potential to slow the U.S. economy and job growth. Advertising is a critical component to economic vibrancy and stimulates a large amount of sales and jobs in every state and congressional district across the country. In 2012, advertising supported 21.1 million U.S. jobs and $5.8 trillion in U.S. sales, according to a study by economic consulting firm IHS Global Insight, Inc. Further, the study showed that the indirect economic impact of advertising spending is significant, since every dollar of advertising spending generates $22 of economic output. Any change to the tax treatment of advertising would undermine this tremendous economic benefit.

Advertising revenue is critical to local TV and radio stations, and for many stations it is their only source of revenue. All broadcasters rely on these advertising dollars to deliver vital news, emergency information and high-quality entertainment for free to their local communities.

Will you oppose any proposal that limits the deductibility of advertising costs that would harm free, local broadcast television and radio stations?