Ensure Changes to the Communications Act Protect Broadcast Viewers

The Senate Commerce Committee and the House Energy and Commerce Committee have indicated an interest in updating the country's communications laws. Both committees are working to modernize the Communications Act to better reflect the 21st century communications landscape.

Many of the issues that will arise during a Communications Act update could fundamentally alter the local television business, impacting viewers.

- **Fair Compensation for Broadcast Signals:** A major issue that will arise in the Communications Act update is proposed changes to the retransmission consent system. This system allows local stations and pay-TV providers to conduct private, market-based negotiations for the use of local broadcast signals, which pay-TV providers resell to their subscribers. Stations reinvest the revenue provided by these negotiations into local news and public affairs programming, high-quality entertainment, coverage of emergency weather events and community activities.

  Pay-TV companies continue to lobby Congress to tilt the retransmission consent system in their favor. They unfairly try to blame retransmission consent for higher consumer prices while at the same time recording record profits year after year. The truth is consumers' pay-TV bills have routinely increased faster than the rate of inflation, and the fees paid by consumers for set-top box rentals alone far surpass the amount pay-TV companies pay to all broadcast stations combined in most markets.

- **Basic Tier:** While Congress has defended the right of local broadcast stations to negotiate in the free market with pay-TV providers, pay-TV companies are trying to make it more expensive and difficult for consumers to access their local TV channels. Their latest effort seeks to move local TV channels from the least expensive pay-TV package (or "basic tier") to a more expensive package. Congress required cable operators to offer local TV channels on the basic tier because it rightly recognized the importance of local stations in providing consumers a vital lifeline for emergency information. Eliminating local stations from the basic tier would harm viewers requiring them to pay more to access the local channels and broadcast content they rely on every day.

- **Exclusivity:** Private contracts between local TV affiliates and broadcast networks provide for the exclusive right to deliver network programming to a local market. Similarly, when local TV stations buy syndicated content, like "Jeopardy" or "Wheel of Fortune," they bargain to be the exclusive provider of that content in a local market. In the event of a dispute over exclusivity, there are rules that allow the Federal Communications Commission (FCC) to be the enforcement authority as opposed to the courts. Pay-TV providers are working to make enforcement of these contracts more expensive by eliminating this FCC enforcement option. This change would be particularly difficult for small and medium-sized broadcasters that don't have the vast litigation budgets of large pay-TV companies. Keeping enforcement of these contracts at the FCC is the best and least expensive option to resolve disputes.

- **Parity:** An update of the Communications Act offers an opportunity for local television stations to better compete against larger and more well-financed pay-TV companies. There are numerous regulatory burdens that saddle only the broadcasting industry but are not applied equally to cable, satellite or wireless video services. Congress should strive for increased regulatory and statutory parity among competitors in the same market to better level the playing field to the benefit of viewers.

Changes to the Communications Act should not jeopardize the important services that local TV stations provide to communities every day, such as lifesaving information, an economic engine to small local companies looking to advertise, reliable and trusted news, investigative journalism and content meaningful to constituents.

Will you ensure that any changes to the Communications Act recognize the value of free, over-the-air broadcasting to local communities and do not harm viewers or undermine the business model that provides locally-driven content?

Oppose a Performance Tax on Local Radio Broadcasters

At the behest of the big record labels, legislation was introduced again last Congress to impose a new performance fee on local radio stations. Such legislation would levy a devastating new "tax," paid to performers and record labels, on local radio stations simply for airing a performer's 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.

As the House Judiciary Committee undertakes its review of the Copyright Act, the big record labels once again have called for the imposition of a performance tax. Yet, 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 more than 240 million listeners a week, a number that dwarfs the reach of both Internet and satellite radio.

Today, the big record labels are struggling to adapt their business model to the digital age and are seeking 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, many of which are based overseas. In actuality, under prior performance tax proposals, 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 effectively control the rights to every sound recording.

Reps. Mike Conaway (TX-11) and Gene Green (TX-29) reintroduced the Local Radio Freedom Act, a resolution opposed to any new performance tax on free broadcast radio. A companion resolution was introduced by Sens. John Barrasso (WY) and Heidi Heitkamp (ND). Cosponsorship of this important resolution, which garnered a bipartisan majority of the House of Representatives during the last Congress, sends a strong signal that the Copyright Act should not be modified to impose such a performance tax.

NAB continues to oppose any congressional-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 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 radio broadcasters in opposing a congressionally-mandated performance tax on radio stations?

Oppose Reforms to the Tax Treatment of Advertising Costs

There is general consensus among the White House and Congress that tax reform is a priority. NAB supports the reduction in corporate tax rates, but wants to ensure that reforms are done responsibly without harming the U.S. economy or the revenue streams that local TV and radio broadcasters rely upon to serve their local communities.

One of the pay-fors considered in prior tax reform proposals is a change to how advertising expenses can be deducted. Today, and for the last 100 years, businesses are able to deduct the full cost of advertising as an ordinary and necessary business expense in the year the expense was incurred, similar to expenses for rent or salaries. 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.

In the 113th Congress, tax reform packages released by the House and Senate tax writing committees sought to change the provision allowing for the immediate deductibility of advertising costs. If enacted, both plans would have limited the current business deduction to only half of its advertising costs in the year the advertising was purchased and would have amortized the balance over a five-year period (Senate plan) or a 10-year period (House plan). As a result, advertising would suddenly become more costly for businesses.

These proposed changes would have a significant impact on your local TV and radio stations that rely heavily on advertising revenues to fund their local reporting. All broadcasters are dependent on these advertising dollars to deliver vital local news, emergency information and high-quality entertainment for free to their local communities.

The impact from these proposed changes to advertising deductibility would also harm the U.S. economy, which is just now beginning to rebound. Advertising is a critical component to the U.S. economy and stimulates a large amount of sales and jobs in every state and congressional district. Additionally, advertising on local radio and television stations stimulates local economies across all sectors, including local auto dealers, banks, retail stores, grocery stores and many others.

According to a study by economic consulting firm IHS Global Insight, in 2013, advertising supported 21.7 million U.S. jobs and $5.8 trillion in U.S. sales. 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.

For these reasons, broadcasters ask that changes to advertising deductibility not be used to fund tax reform. The harmful impact to the broadcast industry and the U.S. economy are too extreme.

Will you oppose any advertising deductibility changes to the tax code that would harm free, local broadcast television and radio stations?

Ensure Changes to the Communications Act Protect Broadcast Viewers

Both the House Energy and Commerce Committee and the Senate Commerce Committee are considering updating the Communications Act.

Local broadcasters have always operated under a model that ensures viewers are served by stations' focus on issues important to their communities. Some of the changes promoted by the pay-television industry would undermine this locally-focused and free broadcast model to the detriment of local communities that rely on their stations to deliver the news, emergency information, sports and entertainment they value.

Pay-TV providers have recently lobbied for changes to the retransmission consent process to give themselves an advantage during market-based negotiations. This process allows local stations to negotiate for fair compensation of their broadcast signals with pay-TV providers, which resell these signals to their subscribers.

As Congress seeks to update the Communications Act, broadcasters urge legislators to not weaken the free-market retransmission consent system. Specifically, local stations ask:

- Congress should not eliminate the requirement that cable companies include local television stations on the basic, least expensive programming tier. Without the basic tier, consumers will ultimately be forced to pay more money to cable companies to receive the same channels they receive today.

- Private contracts between local TV affiliates and broadcast networks provide for the exclusive right to deliver network programming to a local market. Similarly, when local TV stations buy syndicated content, like "Jeopardy" or "Wheel of Fortune," they bargain to be the exclusive provider of that content in a local market. In the event of a dispute over exclusivity, there are rules that allow the FCC to be the enforcement authority as opposed to the courts. These rules make sense for stations and viewers and should be left alone.

- Congress should work to level the regulatory playing field between local television stations and their competitors. Today, broadcasters operate under a litany of regulations that their competitors do not. Congress should eliminate these broadcast-only rules to foster competition and promote fairness.

Local broadcast channels offer the most-watched programs on television. Consumers consistently turn to their local stations for objective reporting on the news, weather and emergency alerts that impact their lives. The revenue generated from retransmission consent agreements is reinvested into producing, improving and expanding local content that consumers rely on and that Congress has required and promoted for decades. We urge Congress to not interfere in these free-market negotiations.

Will you ensure that any changes to the Communications Act recognize the value of free, over-the-air broadcasting to local communities and do not harm viewers or undermine the business model that provides locally-driven content?

Oppose a Performance Tax on Local Radio Broadcasters

- For several Congresses, the big recording industry has lobbied Congress to adopt legislation that would impose a devastating new fee, or performance "tax," paid to performers and record labels, on local radio stations simply for playing music on the radio.

- A performance tax would financially hamstring local radio stations, stifle new artists and harm the listening public 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 more than 240 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 reintroduced the Local Radio Freedom Act, a resolution opposed to any new performance tax on free broadcast radio. A companion resolution is sponsored by Sens. John Barrasso (WY) and Heidi Heitkamp (ND). In the last Congress, a bipartisan majority of the House of Representatives cosponsored the Local Radio Freedom Act.

- The House Judiciary Committee has undertaken a comprehensive review of the Copyright Act and the big record labels have added a new performance tax to their wish list in that process. Cosponsorship of the Local Radio Freedom Act sends a strong signal that Congress should not use the Copyright Act to impose new fees on local radio stations.

- Recent private agreements between individual broadcasters and record labels that compensate artists for both Internet and over-the-air play further 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?

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.

- For 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, similar to rent or salaries.

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

- Advertising is a key driver of the U.S. economy, stimulating sales and jobs. According to a study by economic consulting firm IHS Global Insight, in 2013, advertising supported 21.7 million, or 16 percent, of the 136.2 million U.S. jobs, and $5.8 trillion, or 17.2 percent, of the $33.8 trillion total U.S. sales. 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.

- 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 primary source of revenue.

- Advertising revenue is critical to our country's economic recovery. Making advertising more costly would not only harm local broadcasters, but also the companies in local communities that rely on broadcasting to advertise their businesses.

Will you oppose any advertising deductibility changes to the tax code that would harm free, local broadcast television and radio stations?