

Retransmission Consent: Get Ready for October – Part 1

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The next round of retransmission consent negotiations is just a few months away. It will be the most difficult yet for small cable companies. The DTV transition, more media consolidation, cash for carriage demands, DBS competition and a process skewed in favor of powerful network broadcasters will all combine to make for tough negotiations. Now is the time to start planning.

This article gives you some tips for how to prepare now for negotiations. Our next article will discuss key regulations governing the retransmission consent process and some recent FCC cases dealing with retransmission consent disputes.

How do I begin? Preparation will help you avoid surprises come October. By doing some “homework” now, you can anticipate what you will face from different broadcasters. There are also several issues that will come up in most negotiations that you can develop your company policy on now. We suggest six steps.

Step 1 - Study your markets. Who owns the network stations? What are they demanding now? For example, if you deal with Nexstar or Sinclair, you can already anticipate what they will ask for retransmission consent. If Fox owns stations in your markets, those negotiations will be different because of the small cable company conditions that ACA obtained in the News Corp/DirectTV merger. With some study, you can map this out beforehand, and identify problem negotiations.

Step 2 – Study adjacent markets. You may be able to carry out-of-market stations if the “price” for the in-market station is too high.

Step 3 – Gather information. Talk to other cable operators and see what information they can share. This can help identify what is going on in the market.

Step 4 – Determine your company’s position on key issues. Several issues will come up in negotiations this round. Different companies have different policies or “thresholds of pain” on certain issues. You can begin now to determine what your company can live with, and what it can’t.

Key issues will include:

- Cash for carriage
- Other consideration
- DTV carriage obligations
- DTV multicast carriage
- Dropping a station if the “price” is too high

Step 5 – Know the rules. Retransmission consent is a highly regulated transaction. FCC rules govern how a broadcaster elects retransmission consent, and how a broadcaster must negotiate. A special set of rules governs retransmission

consent for stations owned by Fox. You need to be familiar with these rules and your rights under them, or at least have someone on your team that is.

Our next installment will discuss the rules and cases in detail.

Step 6 – Support ACA. ACA has been at the forefront of the effort to educate policymakers on how media conglomerates use retransmission consent to increase costs and decrease choice for you and your customers. ACA will be very active on these issues in the coming months and will need your support. Please keep in touch with ACA and respond when it requests your help.

While the next retransmission consent round will be difficult, there is plenty you can do to help your company negotiate more reasonable agreements. We hope the six steps outlined above help get you started.

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