CABLEVISION

THOMAS M. RUTLEDGE
Chief Operating Officer

October 26, 2010

Mr. William T. Lake
Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Cablevision/News Corp. Retransmission Consent Negotiations

Dear Mr. Lake,

On behalf of Cablevision Systems Corp. ("Cablevision"), this responds to Fox Networks' letter to you of October 25, 2010 regarding the retransmission consent dispute between Cablevision and News Corp.

The parties' respective responses make two points perfectly clear: News Corp. has negotiated in utter bad faith and the matter is at an impasse. Commission intervention at this point – through mediation, arbitration, or any other process through which an independent entity determines a fair price – is the only practical solution to restoring programming and addressing consumer needs.

News Corp.'s main argument that it is not acting in bad faith appears to rest on the fact that its agreement with Time Warner Cable includes a most favored nation clause that News Corp. does not want to trigger by agreeing to a market rate in New York. Although News Corp. states that it is willing to continue negotiations, it admits that resolution is only possible if Cablevision agrees to its WNYW rates as proposed.

The problem, as discussed in Cablevision's response of October 25, is that the rate that News Corp. negotiated with Time Warner Cable was based on a nationwide arrangement covering a variety of broadcast and cable programming networks – including broadcast stations in various markets – and cannot possibly form the basis of the market rate for WNYW in New York. Indeed, Time Warner Cable's insistence on an MFN in its agreement suggests that even Time Warner Cable thought the rate was too high and left it to other, subsequent distributors to negotiate and set a real market price that Time Warner would enjoy under its MFN – a common strategy in difficult negotiations. For News Corp. to claim that the MFN price *is* the market price, of course, is exactly backward. Nevertheless, News Corp's reliance on its MFN means that Cablevision's attempt to negotiate a fair and reasonable price for its customers cannot yield results, and that restoring programming to consumers without Commission intervention is no longer a possibility.

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While it is unproductive to address each and every claim raised in News Corp.'s letter, there are several to which we feel compelled to respond.

First, News Corp. would have the Commission believe that Cablevision agreed, sight unseen, to adopt whatever rate News Corp. could get from Time Warner Cable, regardless of the consequences for its business and its customers. We deny that claim completely.

Second, News Corp.'s letter includes accusations that Cablevision preferred "political and regulatory intervention" from the start. Those claims are belied by the details in our response yesterday. Right up until News Corp. terminated our right to carry the News Corp. stations and beyond, we have continued to seek retransmission on fair terms and conditions both directly with News Corp. and with the aid of any appropriate third party. News Corp.'s finger-wagging about Cablevision's efforts to inform the media of this dispute is particularly ironic given that News Corp. – not Cablevision – first resorted to use of the media and government to create public and political pressure on Cablevision to accede to its take-it-or-leave-it offer.[1/]

Finally, on the bad faith point, Fox's letter provides no real answer to any of our specific charges of intransigence. Despite its assertions of a willingness to negotiate, News Corp. has at no time backed off its insistence that Cablevision pay *both* its inflexible rate for the WNYW broadcasts and substantial increases for the cable channels it already carries under contract. As we detailed in yesterday's letter, because we thought News Corp.'s demand to tie retransmission consent to renegotiation of the cable channels was both unreasonable and too expensive, we asked for a standalone price for the broadcast stations. News Corp. retaliated with a broadcast-only price increase of nearly $100 million annually for WNYW – apparently a penalty for not accommodating the tying arrangement. If this is the *new* broadcast pricing model, then customers can expect to bear cost increases of nearly $250 a year for broadcast programming in basic cable, for channels that are otherwise available for free, over the air.

At this point, Commission intervention in the dispute is critical.

Accordingly, Cablevision stands ready to engage *immediately* in FCC-supervised arbitration, or whatever means of outside intervention the Commission believes would be most productive, and respectfully asks the Commission to use its authority to order such intervention and News Corp. programming to be restored to the public.

Sincerely,

1/ The first time that Cablevision said anything to the press related to the situation was October 12 via a reactive public press statement – *after* receiving calls from media outlets prompted by Fox circulating a memo at the FCC and elsewhere accusing Cablevision of, among other things, failure to negotiate. In contrast, Fox went public against Cablevision on September 19, running a TV spot during NFL football, launching a Web site, and reactivating various social media tactics (that previously it had used last year against Time Warner Cable) to inflame Cablevision customers.