
# Only broadcasters would claim it's not broken.

In comments filed in the FCC's retransmission consent proceeding, the NAB asserted: "There is no factual basis in the record to support claims that the retransmission consent marketplace is 'broken.'"

**Clearly, they're not seeing the real picture.**

## FACT: More TV blackouts occurred at once this summer than ever before.

During one week in August, six different providers in 58 markets were blacked out— more blackouts at one time than ever.

*"The current rash of TV channel blackouts result from a broken market that is itself a product of increasingly antiquated laws and regulatory neglect."*

— Michael Calabrese, New America Foundation

## FACT: Blackouts have increasingly risen over the last four years.

In 2012 there were 91 blackouts, up 78% from 2011 (51) and 658% from 2010 (12). This year there have already been 80 blackouts and it's only September.

*"We should expect to see more blackouts. This is a reflection of the changing economics of broadcast TV."*

— Mark Tatge, *The New York Times Reader: Business and Economics*

## FACT: Retrans disputes now take place in public and consumers end up as the real victims.

What were supposed to be agreements worked out behind closed doors have become drag-out fights, pushing customers to switch providers and keeping viewers from watching their favorite programming for weeks or months at a time.

*"Rising consumer cable bills are due in no small part to broadcasters' continual push for higher carriage fees. If a cable company plays hardball in negotiations, consumers risk paying for nothing when the broadcasters' channels go dark. Either way, consumers lose."*

— John Breyault, National Consumers League

## FACT: Broadcasters are now blacking out broadband content.

In its retrans dispute with Time Warner Cable, CBS blocked TWC broadband subscribers from free online content, affecting consumers who didn't even subscribe to TWC for pay TV service. Will blackouts on the Internet now become as common as on TV?

*"…I am deeply concerned that withholding Internet content by CBS is just a maneuver to advance its negotiation position. The households in my Congressional District who use TWC broadband, whether or not they also use TWC for their cable service, are denied access to CBS content on the Internet."*

— Rep. Michael Grimm (R-NY)

*"I am also particularly concerned by reports that CBS is blocking access to its Internet-based video for Time Warner Cable broadband customers. A consumer's choice of cable television provider should not be tied to her ability to access Internet content that is freely available to other consumers. In such instances, consumers lose their freedom to access the Internet content of their choice."*

— Sen. Edward Markey (D-MA)

## FACT: Broadcasters play distributors against one another.

When the 1992 Cable Act was created, cable was largely the only choice for pay TV service. Now, consumers have many options and broadcasters are leveraging the competition to squeeze higher fees out of everyone.

*"When TV stations owners began to shift from "must-carry" to "negotiated retrans" in 1993, leverage between the two opposing sides was fairly balanced, with no major blackouts ensuing. Cable operators were regional monopolies controlling consumers' access to multichannel video programming, while local television stations had the exclusive regional access to a television network's high-value programming, particularly sports content. Both sides needed each other and business flourished for all…Fast-forward 20 years later, the media landscape has been dramatically transformed, yet retransmission consent is still governed by 1992 legislation. The original balance of power between cable operator and local television station has all but vanished."*

— Rich Greenfield, BTIG Research

## FACT: Retrans revenue increasingly subsidizes expensive network programming.

When retransmission consent was created it was meant to ensure the health of local news and programming. Now retrans fees are being sent straight back to the national networks to fund sports and primetime programming. Just consider the broadcasters' own words:

*"The economics dictate that broadcasters have to be compensated fairly by pay-TV distributors … if [they] are going to be able to afford to bid for rights to NFL football, The Masters, The World Series and the NBA finals."*

— Gordon Smith, President & CEO,
National Association of Broadcasters

## FACT: Broadcasters are bundling broadcast and cable network programming to charge higher retrans fees.

Broadcasters also manipulate the system by requiring pay TV providers to pay higher rates for cable network programming. Keep in mind that when the 1992 Cable Act passed, broadcast networks owned 4 cable networks; they now own at least 104 — a 2500% increase.

*"However, with ABC's parent company, Disney owning both ESPN and an ABC station group, not to mention the Disney Channel, Disney is able to pool all of its programming power together when it negotiates with a Multichannel video programming distributor (similar to what CBS is doing with Showtime in the current Time Warner Cable dispute). Combining broadcast and cable network programming heft to drive retransmission consent fees was never envisioned when you read the 1992 Cable Act."*

— Rich Greenfield, BTIG Research

## FACT: The current retransmission consent regime is leading to greater consolidation among broadcasters, which is raising the stakes on what were supposed to be local negotiations for local programming.

The consolidation of stations also means the consolidation of newsrooms and even less attention being paid to local programming.

*"Even the broadcast industry is consolidating as companies like Sinclair scoop up local broadcaster after local broadcaster, contributing to the ongoing problem of different local broadcasters coordinating their retransmission consent negotiations and driving up rates."*

— John Bergmayer, Public Knowledge

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