

Good Faith

Mediacom, Sinclair Set for Carriage Dispute Status Conference

Mediacom and Sinclair are scheduled to meet with FCC officials for a status conference about the two companies' retransmission consent dispute, an agency public notice said. It said the FCC would allow ex parte communications during the proceeding, which otherwise would have been restricted. The commission allowed ex parte talks in a similar dispute between the parties in 2006 and "contrary to Sinclair's assertion, we do not believe such action 'bogged down' that proceeding," the notice said.

Meanwhile, Mediacom Chairman Rocco Comisso took aim at Sinclair's dividend policies in recent years and for misrepresenting to regulators the nature of relationships with stations it manages but doesn't own. In recent years Sinclair has "collected \$154 million in retrans fees and paid \$168 million in dividends, meaning that none of the retrans money is being reinvested to produce more local news or programming as Congress originally intended when they passed the law," he said during Mediacom's earnings teleconference Friday.

Sinclair wants it both ways in Washington in terms of ownership status of some of the stations it runs, Comisso said. "There seems to be a situation here where they are either lying to the FCC or they're lying to the SEC." The broadcaster can't tell the FCC it doesn't own certain stations while consolidating the results of those properties when it reports finances to the SEC, he said.

The FCC should ignore Mediacom's attacks, Sinclair said in an opposition last week to Mediacom's complaint. "A single retransmission consent dispute between Mediacom and Sinclair is obviously not the proper forum for considering the propriety of Sinclair's" local marketing or joint services agreements, Sinclair said. "Neither are allegations or past actions in any way relevant to the current dispute."

Sinclair has approached carriage talks in good faith, but that doesn't necessarily mean the two parties must reach an agreement, the broadcaster said. It's "prepared to accept the reality that such negotiations may not result in a meeting of the minds between the parties and as sometimes occurs in commercial negotiations, the parties may be forced to go their separate way without entering into a contract," Sinclair said. -- *Josh Wein*

'Elegant Solution'

HD Radio Power Boost Compromise Draws Wide Support

An agreement before the FCC for many FM radio stations to significantly increase their digital HD Radio power (CD Nov 6 p6) seems to have wide industry support, judging from interviews with five broadcasting officials. The deal, between National Public Radio and HD Radio developer iBiquity Digital, falls short of the 900 percent power increase sought by 16 radio broadcasters. By including ways to further increase power and paving the way for approval of the levels by the Media Bureau, the deal is a good step and it provides some flexibility, some of those parties said. A group representing low-power FM stations worries about interference to all in the band.

"It looks like a reasonable effort to give stations the power they need," said Chief Technology Officer Paul Brenner of Emmis. "It gives us a reasonable minimum level" of a 6 db increase for almost all FM stations "and some authority to apply for a higher level," he said. "It puts some controls in place to move forward cautiously." The agreement helps the Broadcaster Traffic Consortium, which he's president of, show auto makers interested in using the group's mapping services "that there is an end in sight," Brenner added. "The next part is will broadcasters invest the capital and the expense to make this happen." One of Emmis' stations is what's called a grandfathered super-powered Class B station that may have to turn down its analog power to increase it on the digital side, which may not be a good tradeoff, Brenner said. There are 58 of the stations in the U.S., said CTO Mike Starling of NPR.

Using technology to run at different power levels on multicast digital channels, two-thirds of the country's FM stations could increase power beyond the 300 percent, Starling said. "It does not necessarily mean that after a year or more from now after the commission has considerable experience for how these rules might work, they wouldn't necessarily come back and say further changes are warranted." Media Bureau meetings Thursday with NPR and iBiquity went well, Starling added. "The compromise was well received, they were appreciative of it and they are going to take it under study and I think they indicated there could be action on this in the near future," he said. "It would appear that this is well under the category of delegated authority," so a vote of FCC members wouldn't be needed. iBiquity executives weren't available to comment by our deadline.

Increasing power up to 10 db seems possible in many places outside the East Coast and Southern California, where stations are spaced very close, said Vice President Milford Smith of Greater Media. The compromise didn't seem to raise hackles among the consortium of stations and broadcast gear makers that sought the 900 percent increase, which Greater Media and Emmis belong to, Smith said. "I have not encountered anyone associated with the joint parties that was not happy with the way this has turned out. It is hoped going forward that as we get more experience with this stuff that there might be hope to get further power increases." It's "critical" that the "logjam has been broken and there has been a substantial power increase" agreed to, he said. Smith is also chairman of the National Radio Systems Committee, which set the U.S. standard for in-band on channel digital radio, known as IBOC.

"As an interim solution it's an elegant solution that gives broadcasters what they're looking for at least on an interim basis," said Steve Lerman of Lerman Senter, an attorney for the consortium. "The increase will certainly be meaningful to broadcasters and based on the record there is very little prospect of analog interference." The agreement is "a good thing for the folks who might live in less urban environments, but even for the folks in urban environments there will be a lesser increase," an NAB spokesman said. "We think it was a reasonable compromise."

"I think that anyone who has not yet adopted IBOC would probably be quite concerned about this," said Executive Director Pete Tridish of the Prometheus Radio Project. "There really is no benefit to those who have not yet adopted IBOC, and there really isn't that much benefit to stations that have adopted" the standard, because there are so few HD Radio receivers, he added. "There are certain problem cases where a 6 dB or even 10 dB increase is OK, but we think it should be individually engineered." -- *Jonathan Make*

Comm Daily® Notebook

The Commerce Department would get nearly \$31 billion for fiscal 2010 technology programs under a bill (HR-2847) that the Senate passed late Thursday. The Senate appointed conferees to work out differences between its bill and the version that the House passed in June. The Senate bill sets a \$39.9 billion budget for NTIA, including \$20 billion for a public TV grant planning and construction program, as the president had asked. The National Institute of Standards and Technology would get \$878.8 million, \$59.8 million more than it did the previous fiscal year and \$32.7 million more than the president's request. The Technology Innovation Program would get \$69.9 million, equal to the president's request, and consistent with funding levels set in the America Competes Act. The Office of Science and Technology Policy would get \$6.15 billion, equal to the president's request. NASA would receive \$18.68 billion, \$903 million more than the previous fiscal year, and the National Science Foundation \$6.9 billion, \$426 million more than in fiscal 2009. The National Oceanic and Atmospheric Administration's slated \$4.77 billion budget would include \$1.2 billion for satellite programs, \$980 million for the National Weather Service and \$430 million for oceanic and atmospheric research. The Patent and Trademark Office, which is funded by inventor fees, is estimated to have a \$1.9 billion budget for fiscal 2010.

Broadband Stimulus Notes

The NTIA said it made seven state broadband mapping grants in addition to eight announced last month. Receiving grants are Alabama, Idaho, Maryland, Massachusetts, Washington, Wisconsin and Wyoming. The NTIA received applications from all the states, the five U.S. territories and the District of Columbia.