

GARY R. CHAPMAN CONSULTING, LLC  
GARY R. CHAPMAN, PRESIDENT

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**NABEF**

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From: Gary R. Chapman

How Must Carry/Retransmission came to be . . . and more.

Implementation of Cable Television Consumer Protection and Competition Act of 1992.

The reason I am sending this to you is because as time passes I do not want the facts to be lost to Urban Legend. In addition to this report you will find:

- Newspaper Cartoon and Senate Pass Commemorating Senate Passage.
- The nations first media/marketing plan to present to our viewers and cable customers why LIN-TV should fairly be compensated. LIN-TV's Lee Spieckerman developed and over saw the implementation of this first multi media retransmission plan. Included is an eleven minute u-tube video. August 9, 2017
- My Final Thoughts. August 9, 2017
- A case study analysis of Wood-TV vs. Cable Vision of Michigan 1998
- A brief history of retransmission consent. August 9, 2017

Must Carry/Retransmission was born in January 1991 at the NAB board meeting at the Ritz Carlton in Naples Florida. I was TV board chair and Ron Townsend of Gannett was Vice chair. This was the longest TV board meeting (nearly 8 hours) in NAB history. At mid day it spilled out to the beach. The problem was that we believed we could accomplish either Must Carry or Retransmission but not both. This divided the television industry. At the time, this was before the FOX network. The industry was divided into network affiliates and independent TV stations. LIN-TV has affiliation with NBC, CBS and ABC. The independent stations included Tribune. Tribune was one of the largest television groups in America. The Independents also had a second Washington representation in INTV.

I came to understand and genuinely believed that if the network affiliates and NAB board voted for retransmission and not Must Carry TV the independent TV stations would break off from the NAB and pursue Must Carry under INTV against our effort for retransmission. INTV had a capable head in David Donovan, who later became president of MSTV.

The next morning when NAB joint chairman Lowry Mays brought the gavel down to adjourn the joint board. We gave NAB president Eddie Fritts and Jim May (head of NAB government relocation) the marching orders to go forth and obtain legislation for Must Carry and Retransmission. As I walked out of the conference room I can remember thinking we avoided dividing the television industry and NAB which would have resulted in the industry accomplishing nothing. Divided industries never succeed. I also thought what an up hill battle we would have. Some said impossible. But I knew one thing. That was when we left that conference room we all left enthusiastically in lock step with laser focus on accomplishing our goal of passing Must Carry and Retransmission.

The NAB was presented with a major problem not only of how to unite, organize and motivate the TV industry but also how to legally position and write the language that would pass congressional muster. After many attempts, NAB's Jack Goodman came up with the retransmission opt out concept and language that accomplished the Must Carry/Retransmission TV industry standard.

Not only was the enclosed case study presentation in 1998, that favored cable with cable leading, but clearly wrong in concluding there was a market failure.

The case study by and large factual in detailing one of the first and longest retransmission negotiations was presented at the national cable television conference in 1998.

It should be noted that LIN-TV completed the first LMA with the ABC affiliate WUHQ, Now WOTV in Battle Creek Michigan in December 1991.

Let me give you the unique background to the implementation. At the time, Chuck Dolan of Cablevision and John Malone of TCI were on the NCTA board and point representative for the cable industry. As you know I was NAB joint chairman and president and CEO of LIN-TV. Cable's position was "Not one cent for retransmission". Our position was that if we were not fairly compensated "Cut the Cable". When the FCC enforced the act we met Cablevision in Kalamazoo, MI. We had already reached a Retransmission agreement with TCI for the local weather channel and a per sub fee.

NAB's head of television, Chuck Sherman, was flying from market to market presenting spots, research, talking points and public affair programs. We were sharing information, commercials, programs and copy points. Chuck did a great job of helping to launch television's effort.

The big turning point came when ABC, who owned ESPN, and wanted to launch ESPN 2 and to make ESPN the most profitable cable channel. They succeeded. ABC chairman Tom Murphy and president, Dan Burke, formerly of Capital City had both the ABC network and the number one TV station in the top three markets, NY, WABC. LA, KABC. Chicago, WLS. ABC also held the number one station in Philadelphia with WPVI. Tom and Dan had come up through local television and were great broadcasters. I tried to emulate Capital City when building LIN. ABC captured retransmission value by putting the value to ESPN and ESPN 2 and not having their station go off the cable. This represented a great shift in value from television to cable.

We realized we needed to develop the "local weather station" A 24/7. Some live, some taped, some radar, local weather channel, it was billed like the weather channel but local. The local weather station was approved at one of the stations quarterly entitlements. Entitlement meetings were station performance reviews with a focus on sales revenue. A station was entitled to a share of revenue equal to or greater than it's audience share. Corporate designed and maintained the entitlement formula. No one wanted to be just average. High achievers over indexed entitlement. Often we would have news attitudinal reach presented at these meetings.

We just had a news attitudinal presentation and were again told weather was the most important element of local news, and the stations meteorologist was the most preferred in the market. We had just renewed the meteorologist to a long term contract that represented what we thought was a lot of money. We realized the weather people had one of the best jobs in the station. They would do 31/2 minutes of weather at 5 pm, 6 pm and 10 pm (central time) and make a lot of money.

We thought how could we make this more productive? About that time Lee Spieckerman had participated in a focus group in Indianapolis that underscored the importance of local weather. Lee was proposing the development of (LWS) the local weather station and developed the program format. Thus the local weather station was born. It was a combination of live, taped and Dopler radar. It combined high viewer interest and untapped station resources with out substantial increased station expenses. It provided original cable programming and a vehicle to obtain retransmission revenue, enhance the station weather presence and provide increasing community service.

We had worked out a long term Retransmission deal for the local weather channel with John Malone's Tele-Communication Inc. in our markets and any other markets TCI came into. We were paid a per sub fee. As noted, the Kalamazoo Retransmission was never resolved with Cablevision. Cablevision realized they did not want old, small systems scattered across the country. They sold Kalamazoo to TCI and consolidated into the NY metro. Smart move for Cablevision. With TCI's local weather Retransmission agreement, Wood-TV was back on the Kalamazoo cable for the NBC Super Bowl in January 1998. Nearly four and a half years after the first negotiation in October 1993 and with a legal agreement and retransmission contract. There was a period of time when Cablevision began losing customers in droves and they put WOOD-TV back on the Kalamazoo system without honoring agreements or a retransmission contract. Cablevision claimed WOOD-TV gave the WOOD-TV channel to SMU (Southern Michigan University) for free, therefore, they should have WOOD-TV for free. A contractual legal maneuver with a favored nation clause that did not apply. LIN-TV filed suit to protect LIN-TV and the industries' rights, and won a favorable verdict. Cablevision was forced to remove WOOD-TV from the Kalamazoo system.

We also had to enforce our legal rights in Austin, TX when Time-Warner cable imported the Waco NBC, KCEN-TV affiliate into the Austin, TX television market in violation of LIN-TV/KXAN NBC affiliate contract. Again Greg Schmidt forced Time-Warner to drop the Waco NBC affiliate off the Austin, TX system.

Scott Bluenthal was general manager of LIN-TV, Wood-TV Grand Rapids and

NBC affiliate during most of the nearly four and a half years Wood-TV was off the Kalamazoo, MI cable. Wood-TV maintained the most viewed status with the number one news, while increasing audience, revenue, and profit.

This was not, however, the first television station to be affected by retransmission implementation negotiations. LIN-TV, KXAS-TV NBC in the Dallas/Fort Worth market was the first. Landmark owned a TeleCable system of 120,000 subs in Arlington, Plano and Richardson Texas. Landmark also owned the weather channel and LIN-TV was proposing the weather channel with a per sub fee. Landmark saw this as an issue, a fight to the end. Two weeks before the retransmission implementation date of midnight, October 5, 1993 Landmark's TeleCable moved KXAS to Siberia. This resulted in LIN-TV implementing the first multi-media retransmission marketing campaign.

We realized this was the first public test of our resolve to ensure the successful implementation of retransmission and in the 7th largest TV market it would have a lot of both local and national attention. Our campaign encompassed over the air spots, radio, newspaper, direct mail and telephone direct marketing with telephone calls being turned around when coming into the TV station and sent back to the Landmark Cable System, and telephone calls going out to the Arlington, Plano and Richardson Texas zip codes. Eventually we worked out other value added compensation with Landmark but not the local weather channel on the Landmark's Telecable systems. We did, however, launch the local weather station on the other cable systems in Dallas/Ft. Worth television market including TCI. Midnight, October 5, 1993 was the day the FCC implemented the opt out for retransmission. That day LIN-TV stations came off cable systems in all 7 markets. Fortunately TCI had more subs within the LIN-TV markets and we had a contract for the local weather station at 10 cents a sub.

KXAS TV would also go on to become the first duopoly in the top ten TV markets when LIN-TV purchased KXTX from Pat Robertson. We operated KXTX first as an LMA starting May 31, 1994. LIN-TV would negotiate a long term contract with the Texas Rangers for all local rights both home and away. All 162 games. Lee Spieckerman would become president of LIN production and develop the premier local sports production company in the country, producing all home and away Texas Ranger games. In the initial year all games were on KXAS/KXTX television; there was no cable component.

There were many smaller systems in our markets and we had made proposals to all cable companies prior to implementation. Midnight, October 5, 1993, however we were still without contracts in many markets. We had an implementation plan for each market and for every cable system.

Program managers Brian Hocker of KXAS-TV Dallas/Fort Worth and Rick Thedwall of WISH-TV Indianapolis were instrumental in designing and assisting General Manager and corporate management with analysis and making presentations. Midnight, Tuesday October 5, 1993 all General Managers and corporate management continued negotiating cable contracts early into the next morning. The largest market with the greatest number of subs left off the cable was Norfolk, VA. WAVY was not part of the TCI negotiations. Although TCI was the largest MSO at the time it was not present in the Norfolk-

Portsmouth-Newport News television market. WAVY alone engaged in the heated, public, multi-media battle with COX for many months before the deadline. WAVY's competitors reached immediate agreements long before the deadline.

LIN-TV's WAVY was the most viewed TV station with the number one news in the market. Cox owned the largest cable system with 194,000 subs.

WAVY General Manager Lyle Banks and Cox Cable General Manager Frank Bowers had been negotiating for months with no resolution. Cox had utilized their telephone call center to campaign for their no pay position. Cox had the most sophisticated marketing and public relations efforts of all the cable operators LIN faced.

LIN's WAVY employed the multi media campaign complete with direct marketing and telemarketing and turn around incoming calls back to Cox. Due to the multimedia campaign thousands of viewers demanded that Cox cable "Cut their Bill or cut their cable" if WAVY was not added back to the Cox system. Was not WAVY the most viewed, number one news worth a portion of what ESPN was paid or as much as the animal planet channel?

The negotiations continued until October 9, 1993 after being off the Cox Cable system for five days when an agreement was reached. Lyle joined Frank at Cox's Cable's facility where an agreement was signed and the switch was thrown and Wavy returned to the Cox system. Lyle and Frank received a standing ovation from the Cox employees who manned the Cox center. The local weather station was launched on Cox Cable System at ten cents a sub.

After the intense publicity and being off the Cox Cable system for five days in early October WAVY's ratings grew even stronger in the next November ratings book. At the year end LIN-TV corporate meeting in December, in New York city, medals of recognition and bonuses were awarded to all LIN corporate and station employees that successfully launched LIN's retransmission. Lyle Banks was awarded LIN's "Purple Heart" award for the perseverance, determination, courage and successfully executing the LIN-TV retransmission plan.

A new line item was added to the revenue budget, and income statement called retransmission revenue.

The following reports the unique circumstances that took place and how good fortune, good judgment, entrepreneurial spirit, courage and determination to do the right thing evolved.

March 5, 1990 McCaw cellular completed a hostile take over of LIN Broadcast (NASDAQ-LINB) with a 52% ownership stake after a year long fight with Bell South. McCaw became the largest cellular company in the nation. LIN Broadcasting had two divisions. Cellular telephone with markets in New York, Los Angeles, Philadelphia, Dallas and Houston. The other division was television with 7 stations including Dallas/Ft. Worth and Indianapolis. I had joined LIN Broadcasting in January 1989 as president of the TV division reporting to chairman Don Peltz. Don was the former CFO of Capital Cities broadcasting. I learned from Don the art of LIN Broadcastings legendary operating budgets.

We were located at 1380 Ave. of the Americas, New York, NY (56<sup>th</sup> and 6<sup>th</sup>).

In March 1990 I was President and CEO of LIN-TV and NAB TV Chairman. I reported to Craig McCaw of McCaw cellular. Craig was chairman of McCaw Cellular and LIN-TV. In December 1990 LIN television corporation moved to Providence Rhode Island and shortly thereafter Craig moved cellular to Kirkland Washington.

In June 1991 I became NAB joint board chairman. Because McCaw only purchased 52% of LIN there was a PMVG, private market value guarantee. McCaw had to buy the other 48% or put the company up for sale in five years. In September 1994 McCaw sold both McCaw cellular and LIN to AT&T and I now reported to AT&T's Dennis Carry in Basking Ridge NJ.

At the close of the year December 28, 1994 LIN Television was spun off. We had completed our first of two IPO (NASDAQ-LIN-TV) and I was president and CEO of LIN-TV with AT&T our largest stock holder of 45%. During the early development of the conceptualization, passage of the cable television Consumer Protection and Competition Act of 1992 and Implementation in 1993, from March 1990 to September 1994 I reported to Craig McCaw. McCaw's early beginnings was in cable television. John Malone of TCI was on the McCaw board at the time and had to recuse himself every time Retransmission came up, which was often. At first Craig thought the Retransmission idea was ill fated and just would not happen. John Malone did not think it would ever come to reality. He did think, however, it was a threat to the cable TV industry.

The good fortune, entrepreneurial spirit, courage and determination to do the right thing came from Craig McCaw taking the position that I had to do what was best for LIN-TV and my industry, the television industry, giving me the freedom and latitude to pursue Must Carry/Retransmission. As a result we were able to accomplish what it did.

In addition to Lee Spieckerman providing the multi-media plan for this report I enlisted Greg Schmidt who in many respects was not only general council but the heart and soul of LIN-TV. He provided essential guidance, nearly all public speeches, congressional testimony, legal filings, the first broadcast retransmission contract. Anything of importance was written by Greg Schmidt.

In keeping with Craig McCaw's lesson about spectrum in that "there was never a spectrum he didn't like" and Greg's auction ability, Greg and Lyle ran the auction process for all stations.

LIN was the only broadcaster to enter the 700mhz auction, and purchase 700mhz. Spectrum, all within LIN-TV markets.

Finally, Paul Karpowitz oversaw the daily supervision of the TV station. He was the one who got up each day and made the wheels run and to keep the train on the tracks. In addition, Paul was general manager from 1989 to 1994 of WISH TV, channel 8 CBS Indianapolis.

It is noteworthy that I worked with a Karpowicz for 38 years. The first 12 years, 1967-1979 for Paul's dad Ray Karpowicz. Ray hired me out of college in 1967 at KSD-TV channel 5 NBC St. Louis and gave me a foundation in the business of television to start this journey. The last 26 years, 1979-2005, Paul and I worked together. Paul joined Meredith to head up Meredith television division in 2005. Paul and I worked

together first with Pulitzer. Then from September 1984 to January 1989 we worked for Freedom newspapers. Freedom was a family owned company with a prominent libertarian philosophy. I had the opportunity to build Freedom television division and reported to Freedom's affable president Bob Seagal. Bob showed us how independent and original thought were important and not to depend on the public fire department to save you.

We worked together at LIN Broadcasting, LIN-TV and LIN Media. We had three public companies, three private companies, two IPO's and six capital structures. Going from 7 to 31 TV stations. The industries first LMA 1991 in Battle Creek Michigan. LIN had ten of the top 50 markets and Puerto Rico two full power stations or duopoly. LIN also sponsored with support and financing Banks Broadcasting one of the early minority owned television companies with Lyle Banks.

With the long fought and successful implementation of retransmission revenue the greatest value in television history was shifted back from cable to over the air television. Still today, the cable industry attempts to undermine and undo retransmission even after retransmission was reaffirmed by the supreme court in 1999. Today half of televisions' market valuation is derived from retransmission revenue. The major networks obtained approximately half of this value through network affiliation agreements in order to shore up the network model. The major networks have struggled to maintain profits and margins. Of course the lines between television and cable have been blurred. Both TCI and NBC have been consolidated under Comcast and Cablevision is being purchased by ALTICE. ALTICE is based in the Netherlands.

In 1998 LIN was acquired by Hicks, Muse, Tate and First. LIN remained a private TV company until we completed our second IPO in May 3, 2002 (TVL-NYSE) and again became a public company with HMTF our largest shareholder. After 17 and a half years, joining LIN Broadcasting in 1989 I retired from LIN Media as chairman, president, and CEO in 2006.

In June 2006 CFO Vince Sadusky became president and CEO of LIN Media until it was acquired by Media General in 2014 when Vince became president and CEO of Media General. Media General is now being acquired by Nexstar Media and is waiting FCC approval.

For nearly two years (January 1991 through October 1992) NAB president Eddie Fritz and Jim May head of government relations lead the industry in the quest to legislatively accomplish Must Carry/Retransmission. Not only did they need to legally find language that was agreeable with congress but they needed to unite, organize and motivate the industry.

Because some of NAB television members were owned by cable companies or companies that owned cable programming (i.e.) USA, ESPN not all members were fully engaged. Some members and board members were by and large, on the side lines. Not all of the heavy lifting was equal.

The week Must Carry/Retransmission passed the senate and became law I had traveled to Washington, D.C. We had the votes in the house but the senate was close. Things were going well until president Bush vetoed our bill. Now we needed 67 votes in

the senate. We realized that not only did we need support but we needed all votes to be present. Last minute logistics. The day of the senate vote, October 5, 1992, I watched the proceedings from the senate gallery. Eddie and Jim were meeting with staff and members advancing our position. They were executing the plan that would be one of the most successful legislative campaigns by any industry. . . in modern history. I can remember the day Must Carry/Retransmission passed the senate and became law October 5, 1992 S.12 (voting 74-25). There was great relief, jubilation and celebration. President George H.W. Bush left office sustaining 35 Veto's. He lost one and that was the one overturned by the broadcaster bill Must Carry/Retransmission. That night Eddie sent out a memo to NAB membership. The first sentence said " Today was a defining moment in the history of broadcasting". Eddie was truly right. Because every cent of retransmission received began right there that day. It is also true that one year later with the successful implementation of the FCC Must Carry/Retransmission order the television and broadcast industry was again redefined.

I know I have intertwined events and people, as the story unfolded it was impossible to separate. In many respects it was the people that determined the events. They left an indelible impression on the history of our industry. It was a fluid, dynamic, exciting time in American broadcasting marked by rapid change.

Were we going to be able to play a part in determining our future and be the beneficiaries of change or left to be part of the failing industries of American past? As difficult as the course we chose proved to be with obstacles and changes, some said impossible. I believe we chose not only the right course but the only course to preserve and allow our industry to grow and thrive into the industry it is today

c.c.

Paul Karpowicz

Greg Schmidt

Lyle Banks

Scott Blumenthall

Jack Goodman

Lee Spieckerman