



February 4, 2021

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: *Ex Parte* Communication in MB Docket Nos. 15-216, 10-71, and 18-349

Dear Ms. Dortch:

In two days, more than 150 million Americans will sit down to watch Tom Brady and the Tampa Bay Buccaneers take on Patrick Mahomes and the Kansas City Chiefs in the Super Bowl. CBS's broadcast of the Super Bowl ranks as the most anticipated television event of the year and will likely be the most watched event of the year as well. Fox News described the Super Bowl as "a shared experience that is truly American."¹ Such a "shared experience" takes on perhaps even more importance this year in light of the COVID-19 pandemic.

Yet the New York private equity giant Apollo Global Management has directed its Cox Media Group subsidiary to pull CBS stations from tens of thousands of AT&T customers. Viewers in Seattle, Dayton, Yuma, Eureka, and Greenwood Mississippi who have done nothing wrong will thus miss the Super Bowl on AT&T's video platforms.²

AT&T is a member of the American Television Alliance. It says—and we have every reason to believe it—that Apollo Global has chosen to use the moment in which it can inflict maximum harm on viewers in order to extract maximum fees well into the future. Apollo Global, in other words, is engaging less in a negotiation than in a shakedown. Apollo Global, moreover, is a repeat offender in the shakedown game. By our count, Cox has either threatened to take down or actually taken down the Super Bowl five times.³

¹ Roger Beahm, *Why the Super Bowl is a Distinctly American Cultural Event* (Jan. 21, 2014), available at <https://www.foxnews.com/opinion/why-super-bowl-is-a-distinctly-american-cultural-event>.

² These video platforms include DIRECTV, U-Verse, and AT&T TV.

³ Cox has pulled or threatened to pull the Super Bowl from Charter Spectrum, DISH Network, Verizon FIOS, CableOne and AT&T.

Worse yet, Apollo Global has used loopholes in the Commission’s local media ownership rules to control multiple network television feeds in places like Yuma and Eureka.⁴ And in Greenwood, Apollo Global controls all four major network feeds. So, with the flick of a switch, Apollo Global has turned off *all* network programming to AT&T subscribers in Mississippi. And as best as we can tell, Apollo Global has turned off *all* local television news to these subscribers as well—which seems hard to reconcile with the suggestion that even the largest broadcasters (like Apollo) needed stimulus funds in order to “preserve local news.”⁵ Apollo Global’s control of all network programming in Greenwood provides it leverage to command higher retransmission consent fees, not just to AT&T subscribers in Greenwood, but in all of Apollo Global’s markets.⁶

This is intolerable. No broadcaster—whether owned by a private equity giant like Apollo Global or, more rarely these days, a mom-and-pop company—should be allowed to black out marquee events like the Super Bowl.⁷ And no broadcaster should be permitted to evade the Commission’s local media ownership rules to control two “top-four” networks in a market, much less all four such networks.⁸

In accordance with the Commission’s rules, I am filing one copy of this letter electronically in the dockets listed above.

Respectfully submitted,

/s/
Mike Chappell

⁴ The top-four prohibition generally forbids a single entity from owning, operating, or controlling two top-four television stations in the same market. 47 C.F.R. § 73.3555(b)(ii). It does not, however, address control of two top-four network affiliates on multicasts of a single station. Nor do the rules count same-market low-power or Class A stations for purposes of this prohibition. 47 C.F.R. § 74.732(b).

⁵ National Association of Broadcasters, *Provide Relief for Broadcasters Struggling to Survive the COVID-19 Crisis*, available at <https://www.nab.org/advocacy/issue.asp?id=5547&issueid=1081>.

⁶ This is because retransmission consent agreements generally cover stations throughout a broadcaster’s footprint, and usually provide uniform pricing for particular classes of such stations, such as “Big Four” affiliate, “Big 6” affiliate, or independent station.

⁷ See Comments of the American Television Alliance, MB Docket No. 15-217 at 47 (filed Dec. 1, 2015) (proposing prohibition on blackouts during marquee events).

⁸ See Comments of the American Television Alliance, MB Docket No. 18-349, *passim* (filed Apr. 29, 2019) (urging the Commission to close loopholes in its local media ownership rules).