

# Independent Cable

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April 2011

# NEWS

## ACA Seeks Retrans Condition On Sale Of Topeka ABC Affiliate

*Trade Group Calls On Federal Communications Commission To Block Station Sale If Ameliorative Condition Proves Unacceptable To The Applicants*

In an effort to stem media consolidation from forcing television viewers to pay outrageous retransmission consent fees, the American Cable Association is urging the Federal Communications Commission to condition or block the sale of the ABC affiliate in Topeka, Kansas, to a company with a track record of creating local market TV station duopolies for the purpose of gaining undue bargaining leverage over cable and satellite TV operators.

“If this very troubling transaction is allowed to go through unchanged, Topeka’s pay television viewers will suffer irreparable economic harm either by paying higher subscription rates or losing total access to as many as three of Topeka’s Big Four stations at the same time,” ACA President and CEO Matthew M. Polka said.

ACA called on the FCC either to block the TV station sale or adopt a narrowly-tailored, transaction-specific condition that would prevent the newly

acquired ABC station from jointly bargaining retransmission consent with another major TV station in the Topeka designated market area (DMA). The FCC will typically approve a transaction after imposing, where necessary, conditions designed to eliminate a deal’s public interest harms.

“ACA is drawing the line in the Topeka market because based on empirical data from many local TV markets, we know that TV stations that jointly negotiate retransmission consent deals (especially the affiliates of ABC, CBS, NBC, and FOX) charge pay television providers higher fees than stations that bargain on their own,” Polka added. “Consumers in Topeka will be injured by this deal. If the limited condition sought by ACA proves unacceptable to the applicants, then the FCC shouldn’t think twice about designating the TV station license transfer for hearing.”

At issue is the sale of ABC affiliate KTKA-TV, Topeka’s ABC affiliate owned by Free State Communications, to PBC Broadcasting. Topeka’s NBC affiliate and FOX affiliate (which is a Class A licensee of the FCC) are owned by New Vision Television, which has created virtual duopolies pursuant to shared services agreements (SSAs) with PBC Broadcasting in Youngstown, Ohio, and Savannah, Georgia. In addition to forming these agreements, these PBC-New Vision stations also jointly negotiate retransmission consent. Following completion of the KTKA transaction, ACA is confident that PBC and

New Vision intend to create a virtual triopoly in Topeka and coordinate their retransmission consent negotiations, potentially leaving just the CBS affiliate as the only Big Four station that will negotiate retransmission consent as a separate actor.

Free State Communications and PBC Broadcasting bear the legal burden of showing the FCC that the TV station transfer will serve the public interest in the nation’s 137th largest television market with nearly 180,000 television homes. A total of 13 cable operators serve the Topeka market in addition to two satellite TV providers. Meanwhile, ACA has 10 member companies serving about 30,000 households in the 17-county Topeka DMA. Five small cable providers operating in the Topeka DMA filed declarations with the FCC in support of ACA’s petition. All five operators have a retransmission consent agreement with KTKA that expires on Dec. 31, 2011.

ACA has been flagging the nexus between media consolidation and rising retransmission consent fees for many years, calling on regulators to examine the price-gouging efforts of TV station duopolists that rely on LMAs and SSAs to evade the FCC’s local TV station ownership caps.

ACA cited evidence provided by cable operator Suddenlink Communications showing that these broadcaster negotiating alliances drive up the cost of retransmission consent by about 21%. In 2010, ACA members CableAmerica, USA Companies and Pioneer Telephone Cooperative also documented in FCC filings that TV station duopolies charge 30%, 133% and 161% more for retransmission consent, respectively, than TV stations they bargain with on a one-on-one basis. □

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## A Big Price Tag: \$2.5 Billion in Retrans Fees: Who Will Pick Up the Tab?

# What You Need to Know About the 2011 Retransmission Consent Cycle

By: Heidi Schmid and Andrea Person

**T**he 2011 retransmission consent cycle will be here shortly and now is the time to begin preparations. Why? Because this year the fees are expected to skyrocket and independent cable providers will be forced to pay part of the tab.

**\$2.5 Billion in Retrans Fees?** Until recently, broadcast affiliates retained retransmission consent fees as “compensation.” Now, powerful broadcast networks like ABC and CBS, suppliers of network programming to their affiliates, are reportedly demanding, and obtaining, a cut of affiliate retransmission consent revenue. Reports indicate that ABC now requires affiliates to pay the network 50% of retransmission consent revenues. More shocking is that companies like CBS think that current fees are not high enough. Recent media reports quoted CBS Corp. president and CEO Leslie Moonves telling investors that CBS’ retransmission revenue target of \$250 million for 2012 is too low. Mr. Moonves stated that he believes broadcast networks should be able to get up to \$2.5 billion in fees.

**That is a lot of money: where is it coming from?** To receive retransmission consent fees in the billions, broadcasters are demanding more money from more cable operators. Originally, broadcasters targeted smaller operators for significant

fees. Now, broadcasters have moved up the ladder and target larger operators too.

**Not Afraid of the Dark.** Broadcasters continue to show confidence in the value of high demand content. Recent blackouts have ended only when cable companies agreed to pay. The stakes are high with must have programming on the line. Previous standoffs threatened only to shut televisions off during major television events like the Sugar Bowl or the Oscars. But, recent impasses have kept consumers in the dark for days causing them to miss highly desired television content. The most controversial dispute to date took place in New York this past October when negotiations between Cablevision and News Corp. broke down. The result? Three million consumers were hit hard with a 15-day standoff that cut access to Fox at the start Major League Baseball’s World Series. More recently, a breakdown in March between LIN Media and DISH Networks negotiations caused consumers to lose service in Terre Haute, Indiana just before hometown favorite Indiana State University competed in the Missouri Valley basketball tournament.

**Reform on the Horizon.** When televisions go dark, consumers complain. After a media storm following the Cablevision News Corp blackout, the American Cable Association with a consortium of other cable providers, DBS providers, and public interest groups filed a petition with the FCC. ACA’s involvement highlighted the critical need for reform for small cable companies. With consumer complaints high and industry calling for reform, the FCC decided to release a Notice of Proposed Rulemaking (“NPRM”) concerning retransmission consent. The NPRM seeks comment on a series of proposals to streamline and clarify FCC rules concerning retransmission consent negotiations, including:

1. Strengthening the good faith negotiation standards by adding *per se* violations;
2. Improving notice requirements to consumers in advance of service disruptions;
3. Extending to non-cable MVPDs the prohibition on deleting or repositioning stations during “sweeps” periods; and
4. Eliminating the network non-duplication and syndicated exclusivity rules.

Comments collected from the NPRM will analyze the need to release new rules.

The FCC’s decision to review retransmission consent is significant but the impact may be minimal. The FCC believes that Congress limited its authority to reform the retransmission consent process to a small slice of retransmission consent - the good

### About the Authors

*Heidi Schmid and Andrea Person are attorneys with the law firm of Cinnamon Mueller. With offices in Chicago and Washington, DC, CM focuses its practice on representing small and medium-sized cable operators. CM is also outside counsel to the American Cable Association, and has been closely involved in ACA’s retransmission consent reform efforts for more than 15 years. For more information about Cinnamon Mueller, visit us online at [www.cm-chi.com](http://www.cm-chi.com).*



Heidi Schmid



Andrea Person

faith standard. Accordingly, the NPRM will not address valuable negotiation mechanisms like required interim carriage or mandatory binding dispute resolution.

**Not a Time for Foot Dragging.** After over a decade of retransmission consent, the retransmission consent system needs repair. But, independent cable providers should be cautious in how they view the NPRM. Commissioner McDowell and Chairman Genachowski both made public statements to warn parties against relying on the NPRM as a signal that the FCC will act soon. Commissioner McDowell's statement cautioned providers to remember that:

No party should assume that the Commission will act in a particular way, or at a particular time, in this docket. So those of you who are working on retrans deals in 2011 and beyond should stay seated, and engaged, at the bargaining table, and reach a deal on your own.

Chairman Julius Genachowski reiterated the need for parties to remain engaged, stating:

No one should interpret our initiation of this proceeding as . . . or an excuse - to drag their feet on reaching retransmission consent agreements. Foot dragging or any bad-faith conduct won't be tolerated under our existing rules or any new rules we adopt in this proceeding.

**So Start Now!** Participants in the upcoming retransmission consent cycle should listen to the Commissioners' recommendation. Start now and decide to make 2011 retransmission consent cycle a priority. Already there are things you can do to participate in this year's cycle.

- **Budget for higher costs.** Consider all available evidence points to continuing sharp increases in retransmission consent costs. Programming budgets and rate increase plans should reflect this.
- **Trim programming costs.** Video providers should look for opportunities to reduce programming costs, by removing weaker channels when contracts expire, thereby saving license fees. In the face of spiraling retransmission consent costs, operators face tough choices.
- **Educate customers.** Smaller providers benefit from closer customer relationships. You are truly local businesses, with goodwill and trust built over years. That can provide a basis for customer outreach well in advance of December 2011, educating

customers on retransmission consent, the possibility of losing signals and the certainty of increasing costs. For that, they can blame the broadcasters.

- **Know the rules.** Retransmission consent remains a highly regulated transaction. All players must follow a detailed set of rules governing elections, negotiations, and carriage. Mistakes by either side can impact carriage rights. In our view, it is essential that a smaller provider have a working understanding of these rules, or risk being taken advantage of and missing opportunities. If you do not have the expertise on staff, retain someone that does. It will be worth it.
- **Read the fine print!** Coming from lawyers who have dealt with thousands of retransmission contracts: Beware! Many broadcaster contracts contain costly traps for the unwary. Scrutinize the fine print with care, and negotiate terms and conditions.
- **Talk to other independent cable providers.** Other providers in your area are struggling with the same questions as you are. Knowing how to best prepare, budget, and inform consumers are concerns shared by everyone. Talk to colleagues in your community. The more you understand about what other providers are doing in your area, the better you will be prepared to meet this year's obstacles.
- **Support reform.** Finally, if you agree that retransmission consent is broken (and you should), the FCC and Congress cannot hear this message too often. Through organizations like ACA, you can help deliver the message: Retransmission consent hurts consumers and smaller providers. Fix it! □

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Robert A. Searle — Editor & Publisher — rsearle@searlepub.com  
Phone: 303-730-3006 — Fax: 303-797-0276

Roderick Robles — Associate Publisher — rrobles@searlepub.com  
Phone: 805-683-2831

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## Accountability: Sharpening Your Competitive Edge to Develop Loyal Customers

By Walt Zeglinski

In today's highly competitive business climate, most successful companies are finding new and creative ways to win business. By building customer-centric business plans and increasing their commitment to company-wide execution, they've managed to succeed in a turbulent economy. Most of all, they've discovered they simply cannot afford to make mistakes in their customer relationships. They strive to "out-execute" the competition in every aspect of their business that touches the customer. They understand that the key to creating loyal customers is building a culture of accountability.

Most of us have heard the stories of accountable employees who have made a difference – the 911 dispatcher that stays on the phone and calms a caller until the EMT arrives, or the jewelry clerk in a department store that helps a customer to pick out a new dress. Unfortunately, there are far more employees that do not share this commitment to customer accountability and, as a result, fail to deliver on their goals.

Organizations that foster accountability run like well-oiled machines, as people and processes work in lock-step to achieve more predictable and profitable results. I'm not referring to the sort of organizational accountability that focuses on catching employees doing something wrong. Rather the kind of positive accountability that is combined with high levels of employee satisfaction – as individuals are enabled with the right resources and management support. From the outside, these organizations appear to have some magical formula that helps them win even as others are struggling to stay in the race. We have found three keys to creating a culture of customer accountability – exceptional leaders, process discipline, and workforce engagement.

### Setting a Direction

Establishing a customer-accountable culture starts with developing exceptional leaders. They are the navigation system that guides employees toward the finish line. These leaders have a foundation of management expertise that can maximize the talents of their teams as they keep them focused on their customers. Fifty years of client research has led us to six job functions that are critical for exceptional leaders – communicating, planning, organizing, controlling, staffing, and leading. Leaders who are effective at these functions consistently elevate the performance of their people.

#### About the Author

Walt Zeglinski is CEO & Chief Client Advocate for Management Action Programs (MAP), a performance-improvement firm that helps organizations achieve profitable growth. MAP's solutions establish the disciplines that create a culture of accountability. Walt has over 20 years of successful experience in the corporate performance industry, with expertise in developing and implementing practical solutions for complex business challenges. He has worked with executive teams across most industries including financial services and technology. For more information, visit [www.mapconsulting.com](http://www.mapconsulting.com) or call 888.834.3040.

Transforming leaders from average to exceptional requires they get beyond their perceptions of their abilities. Managers who understand the impact they have on others have been given a unique gift. In our experience, "feeling" the perspective of others is a significant catalyst for getting managers committed to improving their skills, attitudes and beliefs. Gaining this realistic perspective can be transformational. Unfortunately, many managers subscribe to the adage "if it ain't broke don't fix it", content to continue with the management practices that have allowed them to be successful in the past. But when market conditions are constantly in flux, leaders must be exceptional. They must find new and better ways to improve performance.

### Doing Things Right

Process discipline is the fuel that accelerates customer accountability. Leaders who hold their teams accountable for exceeding customer expectations establish a systematic approach to monitoring progress and taking corrective action. This typically involves a regular, top-down examination of goals and tasks, enabled by a plan for overcoming obstacles to success. But a consistent methodology is not enough if there is not a clear understanding of the importance of customers to accomplishing key business drivers. Identifying and planning to execute on these "vital few" is the key to energizing employee commitment to individual, departmental and corporate goals.

In years past, many companies have been able to succeed because of great products and people. When markets get tough, accomplishing the same results requires more. A "flexible" approach to goal achievement can encourage mediocre performance. Process discipline drives accountability and insures success even in a turbulent economy.

### People Make It Happen

Leaders who support employee development and clearly communicate goals enable workforce engagement. For many organizations it's the engine that drives accountability. When an individual feels leadership is aligned with their efforts to serve customers and understands the role they play in achieving the company's vital few, they tend to maintain their customer-needs focus. It helps them to show up for work on purpose and provide their employers with the discretionary effort that can distinguish them from competitors. An engaged employee views each customer experience as a "moment of truth" — an opportunity to deliver value and create another loyal customer.

Ultimately, workforce engagement enables commitment to excellence. When individuals understand how their dedication plays into the cable system's broader goals, they see themselves as part of a team and work to better themselves to ensure the whole team wins. What's most interesting is how an environment of engaged employees can thrive, not only because it's a great place to work but also because it creates a productive culture that delivers profitable results.

Customer-accountable cultures with exceptional leaders, process discipline, and an engaged workforce have the unique ability to establish a competitive advantage. Companies with an uncompromising commitment to leadership, process and people are committed to their customers. Accountability makes customer loyalty possible. □

## Healing Your Workplace

# Prescriptions to Prevent Hardening of the Attitudes Among Your Employees

By Jack Singer, Ph.D.

**W**e live in a 24/7 stressful society, filled with uncertainty in the job market, the economy, competition, etc. A large percentage of employees admit to being unhappy with and psychologically disengaged from their jobs. Research shows that among the least happy and least engaged employees, the annual per-person cost of lost productivity due to sick days is more than \$28,000, versus only \$840 among the happiest and most engaged employees! Furthermore, job stress alone is estimated to cost U.S. industry at least \$300 billion a year in absenteeism, diminished productivity, employee turnover and direct medical, legal and insurance fees.

Matt has been a manager for 16 years. Although his employees seem satisfied with their compensation, surveys conducted with them consistently show that their job satisfaction and morale are low and their stress levels are high. Matt has been well trained, but seems at a loss regarding helping his employees to feel more engaged or happy with their jobs.

Because he feels helpless to change the job situation for his employees, Matt, himself, is stressed at work and is unhappy in his supervisor role. Can Matt regain his passion for his profession? Are there techniques he can use which will immediately enhance his employees' satisfaction and morale? Absolutely!

**Below are five powerful prescriptions** for enhancing employee morale and job performance and minimizing job stress.

- **Rx #1. Provide your employees with empowering goal setting strategies.** People are 11 times more likely to reach a goal when they write it down, as opposed to simply thinking about the goal. Have regular meetings with your work team, where in addition to encouraging them to discuss their areas of discontentment, join with them in writing down short and long-term goals that are specific and action-oriented. For example, "For this month, we will have four meetings where we will design and implement our new plan for developing a psychologically healthy workplace. Your goal is to bring an idea with you to each meeting."

Next, ask your people to visualize themselves feeling wonderful once they have accomplished that goal. Ask them to imagine it as if they have already accomplished the goal.

Finally, perhaps most importantly, have them write down ways in which they can sabotage themselves so that they will not accomplish those goals. Encourage them to be honest with themselves about the kinds of self-talk or self-defeating behaviors that they have unfortunately engaged in before, which contribute to not accomplishing their goals.

- **Rx #2 Provide your employees with a sense of control over their jobs.** Psychological studies of jobs are filled with examples of how important it is to give employees a genuine "say" in how to conduct their jobs. Not only does the perception that management truly cares about their feelings have a powerful impact on their morale and degree of job engagement, but giving workers some control over their own work-hour schedule (such as "flex time") and how to approach their work tasks, dramatically reduces job burnout, absenteeism and

turnover.

Have frequent meetings with your employees directed at genuinely listening to their issues and allow them to suggest resolutions. Finally, encourage workers to determine their own specific strengths and put them to use on their jobs. When this is done, employees are six times as likely to be engaged in their jobs and more than three times as likely to report excellent quality of life at their workplace.

Other examples of providing employees involvement in their work are:

- Self-managed work teams
- Employee committees or task forces
- Continuous improvement teams
- Team centered hiring process, where employees select their peers
- Participative decision making projects

- **Rx #3 Provide growth and development programs for your employees, such as brownbag learning programs.** Most employees desire the opportunity to gain new skills and knowledge, so they don't feel stagnant in their jobs. Information provided by outside experts, which will help them on their jobs and in their lives can serve these needs. Providing lunchtime seminars and workshops on such topics as stress mastery, anger mastery, enhanced wellness, communications skills, as well as cross-training them with other job skills enhances organizational effectiveness and improves work quality. Providing free college credit courses after work in your company is a wonderful benefit to provide employees.

- **Rx #4 Provide a variety of planned and spontaneous recognition events for your employees.** It's a no-brainer for companies to provide world class service for their customers and clients, but they often forget that their most important assets—their employees—need the same. Why not make your employees feel as valued as your customers? By acknowledging their efforts—not just their productivity—you can increase employee satisfaction, morale, and self-esteem.

Examples of providing recognition:

- Give unpredictable rewards, such as movie tickets, gift certificates, etc. for a job well done

*Continued on page 6*

### About the Author

*Dr. Jack Singer is a licensed Industrial/Organizational & Clinical/Sport Psychologist, professional speaker, management coach and trainer. Dr. Jack trains everyone from CEO's and HR professionals to elite athletes throughout the world. He is the author of "The Teacher's Ultimate Stress Mastery Guide," and several series of hypnotic audio programs. Dr. Jack uses sport psychology techniques to teach CEO's, sales professionals and business leaders how to maintain their competitive edge, regardless of the uncertain times in which we all live. To learn more, visit [www.drjacksinger.com](http://www.drjacksinger.com), email [drjack@funspeaker.com](mailto:drjack@funspeaker.com) or call (800) 497-9880.*

## Bright House Passes One Million Residential Phone Customers

Bright House Networks has announced that it has reached the one million home phone customer milestone in this its sixth year as a phone service provider. "One million customers is a tremendous milestone, and we are excited to continue to be the home phone provider of choice for our many satisfied customers," said Kevin Hyman, Executive Vice President, Cable Operations. Bright House is the sixth largest MSO in the U.S. with systems located in Florida, Alabama, Indiana, Michigan and California, serving more than 2.4 million customers who subscribe to one or more of its video, high-speed data and voice services. Bright House also owns and operates exclusive local news and sports channels in its Florida markets.

## GLDS Enters Multi-Year Agreement with Wave Broadband; Also Names New COO

Great Lakes Data Systems, Inc. has announced that it has entered into a long-term billing and provisioning agreement with Wave Broadband. Wave Broadband's parent company, WaveDivision Holdings, is a leading MSO based in Kirkland, WA, serving over 300,000 customers in the Seattle, Portland, Sacramento and San Francisco DMAs. Wave Broadband has been serving its customers using GLDS' WinCable subscriber management and billing system since 2003.

"We've been quite satisfied with the GLDS relationship," says Wave Broadband's COO Steve Friedman. "We've experienced significant company growth and GLDS has been a strong and cost-effective partner for us along the way. They've remained responsive to our needs and continue to provide support for our operational strategy." Friedman is also the Chairman of the American Cable Association.

GLDS has also announced the appointment of long-time employee Garrick Russell as President and Chief Operations Officer. Russell joined GLDS in 2003 and was promoted to VP of Operations in 2006, assuming responsibility for the company's daily operations. GLDS has installed software for over 400 operators in 49 U.S. states and 43 countries worldwide. For more information, visit <http://www.glds.com/>.

## Lindsay Has New Optical to Ethernet Gateway

Lindsay Broadband Inc. has announced the newest addition to their diverse line of communication products, a strand mounted managed 10/100/1000BASE-T to 1000Base-SX/LX Optical to Ethernet Gateway. Cable operators can now deploy managed Gigabit

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## White Sands Engineering Introduces One-Piece, Right Angle Connector for Mini RG59 Cable

White Sands Engineering has introduced a new, one-piece, right angle 1023 DIN connector for Mini RG59 Cable. Specifically designed for installations which require the cable to be routed 90° from the connector interface, the 1.0/2.3FPB90 connector saves space and eliminates the problems caused by too tight a bend radius in the cable. Using a one-piece design, the 1.0/2.3FPB90 is compatible with 23 AWG precision video cables including YR46940, 1855A and VDM230.

The 1.0/2.3FPB90 is used for a variety of applications and settings, including video production trucks, cameras utilizing 1.0/2.3 jacks, internal chassis wiring and mating to 1.0/2.3 panels. The 1.0/2.3FPB90 return loss exceeds the SMPTE 292M requirement. For more information, call 1.800.JUMPERS or visit [www.whitesandsengineering.com](http://www.whitesandsengineering.com). □

## Prescriptions (continued from page 4)

- Create a volunteer committee from across different departments to plan special events to show appreciation for your employees
  - Provide free, healthy lunch options for employees (this also benefits by having them stay in the building to discuss work related issues during every lunchtime)
  - List the births, birthdays and other news of interest about employees in the monthly newsletter. Have the CEO or President send out personalized cards to the families listed in the newsletter each month.
  - Encourage work team friendly competition off the job, such as bowling leagues, etc. and post pictures and results around the work sites.
- Rx #5 **Provide a warm, accepting and fun workplace atmosphere, jest for the health of it!** If you want your employees to look forward to Monday mornings, provide an atmosphere that includes fun, teamwork and camaraderie. Acknowledging employee needs and allowing talent and creativity to flourish will keep employees motivated and happy. Examples of providing an accepting workplace:
- Have a "Whine and Geeze" area where employees can go to melt away stress
  - Inject funny quotes and cartoons into company memos
  - Have positive parties funded by negative people (every time a colleague is overheard making a negative comment, he/she puts 50 cents into a kitty)
  - Have monthly theme contests where goofy prizes are awarded
  - Have a surprise treat day once a month, such as having the manager serve the employees bags of popcorn, or ice cream bars, etc.
- If you begin to employ these five potent strategies into your workplace today, you will see amazing results quickly! □


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