

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS**

Re: *DIRECTV, LLC; AT&T Services, Inc., Complainants, v. Deerfield Media, Inc. et al., Defendants*,
MB Docket No. 19-168.

The Commission's rules requiring good faith negotiation for retransmission consent are intended to do more than make sure parties play nice with each other. When effective, they also protect consumers from service interruptions when negotiations between broadcasters and multichannel video programming distributors break down. Consumer protection is a core responsibility of this Commission and, as such, we must take action in response to the kind of egregious behavior apparently exhibited here, especially since it resulted in broadcast television service blackouts lasting in some cases roughly four months.

Last year was a banner year for blackouts,¹ and this year, even in the midst of a pandemic that has brought countless other hardships, consumers continue to experience blackouts, losing local broadcast programming at a time when access to local news and information can be critical.² Filing a complaint may eventually bring some relief, but often not before the damage is done to consumers who are blindsided when they turn their televisions on and their local channel has gone dark.

The Media Bureau noted in the underlying order that this was the most egregious example of delay we've seen since the good faith negotiation rules were adopted.³ I therefore fully support proposing the maximum statutory forfeiture for these apparent, *per se*, violations, given the resulting direct harm to consumers. Going forward, Negotiating Entities should be on notice that similar instances of apparent failure to negotiate for retransmission in good faith, especially when resulting in blackouts and other harms to consumers, could result in similar proposed penalties.

My thanks to the staff for their work on this item.

¹ See Letter from American Television Alliance to the U.S. Senate Committee on Commerce, Science and Transportation (October 22, 2019) (noting that the 276 blackouts to date in 2019 had eclipsed the prior annual record of 213), at <https://www.americantelevisionalliance.org/wp-content/uploads/2019/10/ATVA-Senate-Hearing-Oct-23-FINAL.pdf>.

² Axios, "Dozens of local stations blacked out for Dish customers amid pandemic" (July 27, 2020) (noting that Dish's "recent slew of local blackouts is creating an enormous local news draught for many communities during the pandemic"), at <https://www.axios.com/dozens-of-local-stations-blacked-out-for-dish-customers-amid-pandemic-d6da75ba-65c6-4f17-ab7b-96e55d9a0764.html>.

³ *DIRECTV, LLC; AT&T Services, Inc., Complainants v. Deerfield Media, Inc., et al., Defendants*, MB Docket No. 19-168, Memorandum Opinion and Order, 34 FCC Rcd 10367, 10381 ¶ 31 (MB 2019).