

# GAO Highlights

Highlights of [GAO-15-441](#), a report to congressional requesters

## Why GAO Did This Study

Local television stations negotiate with content providers—including national broadcast networks, such as ABC—for the right to be the exclusive provider of content in their markets. FCC’s network non-duplication and syndicated exclusivity rules (“exclusivity rules”) help protect these contractual rights. In 2014, FCC issued a further notice of proposed rulemaking (FNPRM) to consider eliminating or modifying the rules in part to determine if the rules are still needed given changes in recent years to the video marketplace.

GAO was asked to review the exclusivity rules and the potential effects of eliminating them. This report examines (1) industry stakeholder views on the need for and effects of the exclusivity rules and (2) the potential effects that removing the exclusivity rules may have on the production and distribution of content, including local news and community-oriented content.

GAO reviewed all 31 comments filed by industry stakeholders with FCC in response to its FNPRM. GAO also interviewed 27 of those industry stakeholders and FCC officials. GAO also analyzed—in light of general economic principles—stakeholder views on the potential effects of eliminating the rules.

FCC reviewed a draft of this report and provided technical comments that GAO incorporated as appropriate.

View [GAO-15-441](#). For more information, contact Mark Goldstein at (202) 512-2834 or [goldsteinm@gao.gov](mailto:goldsteinm@gao.gov).

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## BROADCAST EXCLUSIVITY RULES

### Effects of Elimination Would Depend on Other Federal Actions and Industry Response

## What GAO Found

Broadcast industry stakeholders that GAO interviewed (including national broadcast networks, such as ABC, and local television stations) report that the exclusivity rules are needed to protect local television stations’ contractual rights to be the exclusive providers of network content, such as primetime dramas, and syndicated content, such as game shows, in their markets. These stakeholders report that by protecting exclusivity, the rules support station revenues, including fees from cable operators paid in return for retransmitting (or providing) the stations to their subscribers (known as retransmission consent fees). Conversely, cable industry stakeholders report that the rules limit options for providing high-demand content, such as professional sports, to their subscribers by requiring them to do so by retransmitting the local stations in the markets they serve. As a result, these stakeholders report that the rules may lead to higher retransmission consent fees, which may increase the fees households pay for cable service.

Based on GAO’s analysis of industry stakeholder views, expressed in comments to the Federal Communications Commission (FCC) and interviews, eliminating the exclusivity rules may have varying effects.

- If the rules were eliminated and cable operators can provide television stations from other markets to their subscribers (or “import” a “distant station”), local stations may no longer be the exclusive providers of network and syndicated content in their markets. This situation could reduce stations’ bargaining position when negotiating with cable operators for retransmission consent. As a result, stations may agree to lower retransmission consent fees. This potential reduction in revenues could reduce stations’ investments in content, including local news and community-oriented content; the fees households pay for cable television service may also be affected. Because multiple factors may influence investment in content and fees, GAO cannot quantify these effects.
- If the rules were eliminated, other federal and industry actions could limit cable operators’ ability to import distant stations. For example, if copyright law was amended in certain ways, cable operators could face challenges importing distant stations. A cable operator could be required to secure approval from all copyright holders (such as the National Football League) whose content appears on a distant station the cable operator wants to import; with possibly hundreds of copyright holders in a day’s programming, the transaction costs would make it unlikely that a cable operator would import a distant station. Also, broadcast networks may be able to provide oversight of retransmission consent agreements if FCC rules were to allow it. Cable operators may only import distant stations if retransmission consent agreements with those stations permit it, and stations’ agreements with broadcast networks generally prohibit stations from granting such retransmission. If FCC rules allowed it, broadcast networks could provide oversight to help ensure such agreements do not grant retransmission outside the stations’ local markets. Under these two scenarios, local stations may remain the exclusive providers of content in their markets, their bargaining position may remain unchanged, and there may be limited effects on content and fees for cable service.