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October 20, 2017

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: GN Docket No. 16-142; MM Docket Nos. 14-50, 09-182, 07-294, 04-256

Dear Ms. Dortch:

On October 18, 2017, Rick Chessen, Michael Schooler, and Diane Burstein, all of NCTA - The Internet & Television Association, met with the following Media Bureau staff: Michelle Carey, Kim Matthews, Nancy Murphy, John Gabrysch, Evan Baranoff, Brendan Murray, Martha Heller, Steve Broeckaert, Lindsey Meyers, Kathy Berthot, Martin Doczkat, and Mark Colombo. On the same day, we also separately met with Matthew Berry and Alison Nemeth from the Office of Chairman Pai.

During our meetings, we discussed the need for the Commission to ensure that the broadcasters' voluntary roll-out of ATSC 3.0 does not disrupt consumers or impose costs and burdens on cable operators and their customers. In particular, we reiterated our position that the Commission should require broadcasters to continue to transmit a robust ATSC 1.0 signal during the transition period to ATSC 3.0. Rather than end certain key transition requirements after an arbitrary three-year period, as NAB proposed in an ex parte filing,¹ the Commission must continue to require simulcasting until it determines that conditions warrant allowing a broadcaster to no longer provide an ATSC 1.0 signal.

During that transition period, among other things, we reiterated that the ATSC 1.0 simulcast stream must continue to serve the same coverage area and community of license from a "host" station as it did prior to the launch of the ATSC 3.0 signal on its regularly assigned channel. In addition, the ATSC 1.0 simulcast signal should be required to transmit the same format and resolution (i.e., HD or SD) as before the transmission of the companion ATSC 3.0 signal, with the same programming except where technically infeasible due to the nature of ATSC 3.0.²

¹ See Ex Parte Letter from Patrick McFadden, Associate General Counsel, National Association of Broadcasters, to Marlene H. Dortch, Sept. 8, 2017, p. 4.

² We also urged that the rules incorporate ATSC standards A/322:2017 in addition to A/321:2016, both of which are key elements necessary to ensure reliable over the air reception of the ATSC 3.0 RF signal.

We also discussed why, in these unique circumstances, and especially while transmission of an ATSC 3.0 signal is to be completely voluntary, there is no basis for allowing broadcasters to use access to an ATSC 1.0 signal to secure new carriage rights for ATSC 3.0 signals in a manner that imposes costs and hardships on MVPDs and their customers.

Finally, with respect to local media ownership, we raised concerns about any revision of the duopoly rule that would permit joint retransmission consent negotiations by two “top four” commonly-owned stations in the same market. We noted NCTA’s prior advocacy opposing joint retransmission consent negotiations and the Commission’s previous finding that joint negotiations by top-four stations were anticompetitive and harmful to consumers.³ There is nothing in the current record that would permit the Commission to essentially overturn that finding. Therefore, we proposed at a minimum that the Commission defer action on the “top four” duopoly rule until after a full examination of its impact in a further proceeding.

Respectfully submitted,

/s/ Rick Chessen

Rick Chessen

cc: Michelle Carey
Kim Matthews
Nancy Murphy
John Gabrysch
Evan Baranoff
Brendan Murray
Martha Heller
Steve Broecker
Lindsey Meyers
Kathy Berthot
Martin Doczkat
Mark Colombo
Matthew Berry
Alison Nemeth

³ See *Amendment of the Commission's Rules Related to Retransmission Consent*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 3351 (2014).