



October 22, 2018

VIA ECES

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
455 12th Street, SW
Washington, DC 20554

Re: Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative; MB Docket Nos. 17-317 & 17-105

Dear Ms. Dortch,

America's Public Television Stations,¹ the Corporation for Public Broadcasting,² and Public Broadcasting Service³ (collectively, "Public Broadcasting") file this response supporting the position set forth in the September 17, 2018, Ex Parte letter of NCTA – The Internet & Television Association, the American Cable Association, and the National Association of Broadcasters, in the above-captioned proceedings. NCTA, ACA and NAB address issues related to a possible compromise proposal in modernizing the rules on notices to cable operators from broadcast stations of their election between must carry or retransmission consent pursuant to the FCC's rules.

Further, Public Broadcasting is filing in opposition to the September 25, 2018, Ex Parte of AT&T and DISH Network in the above-captioned proceedings. The assertion by AT&T and DISH that "e-mail delivery does not provide the level of certainty for the carriage election process" is without merit. The FCC itself conducts its business by e-mail and electronic submissions. Therefore, the FCC rules should certainly permit TV broadcasters also to use these methods for conducting business.

¹ APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation's CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American people.

² CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming.

³ PBS, with its 350 member stations across the country, offers all Americans the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches nearly 100 million people through television and nearly 30 million people online, inviting them to experience the worlds of science, history, nature and public affairs; to hear diverse viewpoints; and to take front row seats to world-class drama and performances.

Public Broadcasting fully supports modernizing the broadcaster notice process for MVPD carriage elections. Public Broadcasting also supports the FCC correcting a misalignment between the cable and DBS election requirements that unnecessarily burdens noncommercial educational television (NCE-TV) stations. Public Broadcasting's position was set forth fully in comments filed in the above-captioned proceedings, and attached hereto.

Every three years, NCE-TV stations are required by FCC rules to re-notify satellite carriers and renew their requests to continue to be carried by the satellite carrier, under notice requirements no longer relevant today.⁴ Section 76.66(b) of the FCC rules requires that NCE-TV stations renew their carriage requests by the antiquated method of certified mail, and failure to use the specified certified mail delivery method can result in loss of satellite carriage.

Furthermore, these proceedings present an opportunity for the FCC to correct a long-standing rule misalignment between the satellite carrier election process and the cable operator election process as applied to NCE-TV stations. By statute, NCE-TV stations do not have retransmission consent rights – only mandatory carriage rights. The FCC's cable carriage rules, recognizing that NCE-TV stations cannot make periodic “election” choices between retransmission consent and mandatory carriage (because there is only one choice available—mandatory carriage), do not require periodic elections to cable operators by NCE-TV stations.⁵

In contrast, for satellite broadcast signal carriage, Section 76.66(c)(5) of the FCC rules requires that NCE-TV stations must periodically renew their carriage requests on three-year cycles. NCE-TV stations, therefore, must engage in a rote process, every three years, of “electing” mandatory carriage for satellite carriage, despite NCE-TV stations having no other option to select. There is no apparent regulatory benefit to requiring an NCE-TV station to re-request satellite carriage (its only statutorily available carriage option) every three years. Therefore, its prior election of mandatory carriage to a satellite operator should continue absent a change in satellite carriage circumstances, and the obligation to re-file satellite carriage requests every three years for NCE-TVs should be eliminated.

⁴ See 47 CFR § 76.66.

⁵ See 47 CFR § 76.64(h) (adopted in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Broadcast Signal Carriage Issues*, Report and Order, 8 FCC Rcd 2965, 3003 (1993)).

Respectfully submitted,

/s/ Lonna Thompson

Lonna Thompson

Executive Vice President, Chief Operating Officer
and General Counsel

AMERICA'S PUBLIC TELEVISION STATIONS
2100 Crystal Drive, Suite 700
Arlington, VA 22202

/s/ J. Westwood Smithers, Jr.

J. Westwood Smithers, Jr.

Senior Vice President and General Counsel
CORPORATION FOR PUBLIC BROADCASTING
401 Ninth Street, NW
Washington, DC 20004

/s/ William Weber

William Weber

Vice President, Government Affairs
and Associate General Counsel

Talia Rosen

Assistant General Counsel and
Senior Director, Standards & Practices

PUBLIC BROADCASTING SERVICE
2100 Crystal Drive
Arlington, VA 22202