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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Written Ex Parte Communication, MB Docket Nos. 17-105, 17-317

Dear Ms. Dortch:

Together with DISH Network L.L.C., I am writing to address certain questions raised by Commission Staff in a recent meeting regarding the Modernization of Media Initiative, specifically addressing proposed changes to the carriage election regime.¹ Under the NCTA/NAB Joint Proposal, broadcasters would provide multichannel video programming distributors with a carriage election notice via email only if the station is changing its carriage election.²

Staff asked for further explanation as to why continued triennial elections by broadcasters requesting mandatory carriage are needed by direct broadcast satellite ("DBS") providers to manage and prepare for the next carriage cycle. AT&T estimates that approximately 15% of its must-carry stations change election status or ownership and/or network affiliation from cycle to cycle. While DISH has not quantified these changes, it notes that the triennial cycle is also important as stations may change their city of license. In addition, stations may undergo changes that impact their eligibility for must carry status, including changes to the programming in their primary stream. DISH and AT&T further estimate that during the three-year election period they may each contact about a quarter of their must-carry stations regarding technical and/or programming related issues. It is thus essential that DBS providers have updated information for these stations.

Were the DBS providers not to receive an election notice, as is suggested by the Joint Proposal, as noted above they would not receive vital information (including the most current full-power status of the station, station call sign, ownership, Designated Market

¹ Media Bureau Seeks Comment on Industry Proposal for Carriage Election Notice Modernization, Public Notice, MB Docket No 17-317 (rel. Dec. 13, 2018).

² Letter from Rick Chessen, Senior Vice President, Legal and Regulatory Affairs, NCTA, and Rick Kaplan, General Counsel and Executive Vice President, Legal and Regulatory Affairs, NAB to Michelle Carey, Chief, Media Bureau, MB Docket Nos. 17-317, 17-105 (filed Dec. 7, 2018) ("Joint Proposal").

Area, address, phone number and e-mail of station contact). It is unfair to shift the burden of providing this information from the broadcasters, who receive three years of guaranteed carriage, to the DBS providers who would then each have to search hundreds of online files for updated information. This burden is especially inequitable given the disparity between the large number of broadcasters and the number of DBS systems. The minimal requirement for a broadcaster seeking mandatory carriage to file a letter with the two DBS providers once every three years, as is specified in the Commission's current rules, strikes the proper balance.

As we have previously stated and consistent with our comments in this proceeding,³ the Joint Proposal put forward by NCTA and NAB is not workable for DBS providers and, if adopted, will impose burdens on us -- despite NAB's unsupported assertions to the contrary.⁴

If you have any questions, please contact me at (202) 457-2042.

Sincerely,



Copies:

Martha Heller
Lyle Elder
Varsha Mangal

³ See Joint Comments of DIRECTV, LLC and DISH Network L.L.C. In Response to Public Notice, MB Docket No. 17-317 (Mar. 18, 2019); (Comments of DISH Network L.L.C., MB Docket Nos. 17-317 and 17-105 (Feb. 15, 2018); Reply Comments of AT&T, MB Docket Nos. 17-317 and 17-105 (Mar. 5, 2018).

⁴ Letter from Rick Kaplan, General Counsel and Executive Vice President, Legal and Regulatory Affairs, NAB to Marlene H. Dortch, Secretary, Federal Communications Commission, MB Docket Nos. 17-317, 17-105 (filed Apr. 8, 2019) (erroneously claiming that the Joint Proposal will "benefit" DBS providers).