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THROUGH ECFS

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

**Re: Notice of *Ex Parte* Presentation of American Cable Association, GN Docket
Nos. 17-183 and 18-122**

Dear Ms. Dortch:

On July 5, 2018, Ross J. Lieberman, Senior Vice President, Government Affairs, American Cable Association (“ACA”), Michael Mason, Senior Network Engineer, Shenandoah Telecommunications Company (“Shentel”)¹ (an ACA member), Jeff Stough, Central Office and Headend Manager, LHTC Broadband² (also an ACA member), and the undersigned met separately with the following: Rachael Bender, wireless and international advisor to Chairman Ajit Pai; Erin McGrath, wireless, international and public safety advisor to Commissioner Michael O’Rielly; Umair Javed, wireless and international advisor to Commissioner Jessica Rosenworcel; and representatives from the Wireless Telecommunications Bureau, International Bureau and Office of Engineering and Technology (“Bureaus”) copied below.

¹ Shentel is a diversified telecommunications holding company that, through its operating subsidiaries, provides both regulated and unregulated telecommunications services to end-user customers and other communications providers in the southeastern United States. Shentel offers a comprehensive suite of voice, video and data communications services based on the products and services provided by their wireless, cable, and wireline segments. Shentel provides video service to approximately 50,000 subscribers.

² LHTC Broadband provides local phone, long distance, Internet and cable television service to customers across 200 square miles in rural Pennsylvania, including the following locations: Laurel Highlands Area, Yukon, South Canaan. The company, headquartered in Stahlstown, PA, provides video service to approximately 4,400 subscribers.

In the meetings, ACA and its members discussed the burden of requiring earth station operators—and small cable operators in particular—to submit information on “transponder number(s) and how often each transponder is used” for “each antenna under each call sign.”³ A typical cable operator’s earth station receives programming from about 100 transponders through multiple antennas.⁴ To verify the transponder numbers and how often each transponder is used for each antenna, a cable operator must take two steps. It must examine its video distribution infrastructure and antennas to determine which of its commercial satellite receivers are connected to which of its antennas. It must also obtain information from each satellite programmer or from other available sources to determine which satellite transponder delivers the programming networks the cable operator offers to its customers.

According to Mr. Mason, who verified the transponder numbers and how often each transponder is used for each antenna for Shentel a few years ago, the process involved separately tracing more than 100 individual wires from the backs of each satellite receiver to splitters that lead to individual antennas. The wire lengths were about 100 feet each. Mr. Mason stated that tracking each individual wire took about an hour because these wires are typically all the same color, run the same routes to splitters (often overhead with twists and turns to stay out of the way of employees working in the facility) and are tied together with other wires to keep the facility free of excess clutter. Moreover, because cable operators generally associate their satellite receivers with the names of the programming networks received on those receivers (instead of the transponders with which the programming originates), Mr. Mason explained that he had to fully inventory which programming networks were coming from which satellite transponders. While Shentel had spec sheets from some satellite programmers that provided that information, some of those spec sheets were outdated, while others could not be found.⁵ Unable to rely on the company’s existing documentation, Mr. Mason spent time collecting relevant information anew from the satellite programmers and through other sources. In total, Mr. Mason estimated that it took him about 80 workhours to complete both steps of this task for one headend.

Mr. Stough, whose company has never undertaken a complete documentation of which of its antennas are pointing to which transponders, agreed with Mr. Mason about the steps required to collect that information and the time that it would take to do so. Because the *Order* requires cable operators to certify the accuracy of the information being submitted and the consequences of providing incorrect information may include no protections from future uses at all, Mr. Stough

³ Expanding Flexible Use of the 3.7 to 4.2 GHz Band, *Order and Notice of Proposed Rulemaking*, GN Docket Nos. 17-183 and 18-122, ¶ 21 (draft released June 21, 2018) (“*Order*”).

⁴ A cable operator generally receives programming on an earth station from multiple transponders on multiple satellites, and programmers often ask cable operators to change the transponders from which an earth station receives programming.

⁵ Satellite programmers often send cable operators spec sheets that document the transponders being used for each of their programming networks, and they update these documents as networks change transponders on a temporary or permanent basis.

explained that the only reliable means of providing that information is to undertake the burdensome process described above.

While large and mid-sized cable operators, like Shentel, may collect that information already for other purposes, small cable operators often do not do so due to the burden associated with that collection. According to Mr. Stough, whose company has only two dedicated headend employees, LHTC Broadband has never needed to collect all of that information into a single source from its headend. He explained that a complete database containing such information is not essential to managing a typical cable headend effectively —when an issue with receiving programming occurs (which he says is not very often), his employees address it by only needing to trace a wire or two. ACA explained that it spoke with its members and confirmed that, like LHTC Broadband, ACA's other small cable operator members—which number in the hundreds—do not have that information and would have to undertake the burdensome process of collecting it.

Mr. Mason and Mr. Stough both noted that cable operators, particularly small cable operators, are likely to be most burdened by the Commission's request for transponder information on a per antenna basis. First, earth stations run by cable operators generally point to significantly more transponders than earth stations operated by other types of registrants, and so more information per earth station would need to be collected and reported. Second, while all cable operators are likely to be collecting and reporting similar amounts of data to the Commission because they all generally offer the same amount of programming, small cable operators have significantly fewer employees to do the work. ACA noted that half of its members have 10 or fewer employees.

ACA recognizes the rationale behind the Commission seeking to collect that information, but explained that, for operators that do not already have transponder information on an antenna by antenna basis on hand, collecting that information could take up to five times as long as collecting the information requested in Form 312 (and its Schedule B). ACA applauds the Commission for taking steps to reduce the burden of registering earth stations, but all of those efforts would be rendered meaningless if the *Order* now imposes a new burden on small cable operators that would require them to undertake multiple times more work to be protected as a registrant.

ACA thus urged the Commission to exempt small cable operators from the requirement of collecting transponder numbers and how often each transponder is used. Requiring such operators to collect that information would strain their already limited personnel resources as well as their budgets, which are already pressured by rising programming costs, competition from online video distribution and the cord-cutting phenomenon.⁶ ACA highlighted that the

⁶ Requiring small cable operators to collect that information in addition to completing Form 312 (and its Schedule B) by the October 17, 2018 earth station registration deadline would burden them even more. See International Bureau Announces 90-Day Extension of Filing Window, to October 17, 2018, to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz

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Commission typically relies upon two definitions of small entities in the cable industry.⁷ ACA noted that the use of either definition should be sufficient to provide the relief necessary for small cable operators, but that the Commission should also delegate to the Bureaus the right to waive the collection information requirement for any cable operator seeking a waiver.

This letter is being filed pursuant to Section 1.1206 of the Commission's rules.

Respectfully submitted,

/s/
Georgios Leris
Counsel for American Cable Association

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Band, Filing Options for Operators with Multiple Earth Station Antennas, Public Notice, GN Docket Nos. 17-183 and 18-122, DA 18-639 (June 21, 2018).

⁷ See, e.g., 47 C.F.R. § 76.901(e) (defining a “small cable company” as one serving 400,000 or fewer subscribers nationwide; *id.* § 76.901(c) (defining a “small system” as one serving 15,000 or fewer subscribers).