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BY ELECTRONIC FILING

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

*Re: Authorizing Permissive Use of the “Next Generation”
Broadcast Television Standard, GN Docket No. 16-142*

Dear Ms. Dortch:

I write on behalf of the American Cable Association’s small- and mid-sized cable operators to urge the Commission to more fully consider the potential for service loss caused by the proposed transition to ATSC 3.0. The Commission should prevent service loss caused by the ATSC 3.0 transition for the same reasons that broadcasters say the Commission should prevent service loss in other contexts.

In recent weeks, in two separate contexts, broadcasters have suggested that *any* Commission activity that reduces viewership of *any* television station in *any* respect would harm the American people. Any such service disruption, the broadcasters claim, would threaten public safety, deprive viewers of unique, local news sources, and upset settled expectations.

- Just last week, for example, broadcasters expressed their objections to “white spaces” use of broadcast spectrum by warning that “[p]olicymakers should not be misled by slick . . . promises [by a white spaces proponent] that threaten millions of viewers with *loss of lifeline broadcast TV programming*.”¹

¹ *NAB Statement on Proposed Use of TV White Spaces by Microsoft for Rural Broadband*, National Association of Broadcasters: News Releases (July 11, 2017) (emphasis added), <http://www.nab.org/documents/newsroom/pressRelease.asp?id=4194>. Broadcasters, of course, have made their *own* promises about the “innovation” made possible by a transition to a yet to be marketed ATSC 3.0 standard. *See, e.g.*, Comments of National Association of Broadcasters, *et al.* at 1, GN Docket No. 16-142 (filed May 9, 2017) (“By approving voluntary use of the Next Generation TV (Next Gen) transmission standard, the Commission will allow broadcasters to offer exciting and innovative services, including visually stunning

- Also last week, broadcasters argued for additional funds to reimburse repacking costs, noting that they would “work closely with Congress to address this issue, and to additionally ensure that no TV viewer or radio listener loses access *to the entertainment and lifeline local broadcast programming they rely on today*.”² Earlier, broadcasters had urged Congress to delay the repack itself on similar grounds.³
- And, of course, broadcasters have repeatedly criticized the Commission’s efforts to create reasonable repack rules as not sufficiently protecting broadcast viewers. Broadcasters called the Commission’s proposals “perverse,”⁴ “bad for viewers,”⁵ and “devastating,” “[g]iven that broadcasters take seriously their obligations to serve their local communities”⁶ Indeed, NAB rebuked the Commission for having decided “merely to ‘give it the old college try,’ and *too bad* viewers are left in the dark after the auction.”⁷

One might reasonably have assumed that broadcasters would show similar concern about potential service loss caused by their own actions. With respect to the ATSC 3.0 transition, however, broadcasters appear to take a much different attitude.

Broadcasters originally proposed a simulcasting requirement—one that they described as “[t]he *core* of the voluntary, market-driven implementation of ATSC 3.0”⁸—“*so that viewers will not be disenfranchised*.”⁹ Now, however, broadcasters say that the Commission and the

pictures, more immersive audio, superior reception, enhanced public safety capabilities and other features.”).

² *NAB Statement on Preliminary Estimate of Repack Costs*, National Association of Broadcasters: News Releases (July 14, 2017) (emphasis added), <http://www.nab.org/documents/newsroom/pressRelease.asp?id=4197>.

³ Communications Daily Notebook (June 22, 2017) (“Congress should pass legislation to ensure their constituents do not lose access to local television and radio stations during this mandated station relocation due to a lack of funds or unreasonable time constraints for station relocation.”). Broadcasters have even started a public relations campaign to emphasize the importance of their service, and how bad it would be for anybody to lose service as a result of the repack. *Id.*

⁴ Comments of the National Association of Broadcasters at 24, GN Docket No. 12-268 (filed Jan. 25, 2013).

⁵ *Id.* at 26.

⁶ *Id.*

⁷ Comments of the National Association of Broadcasters at i, GN Docket No. 12-268 (filed Nov. 12, 2014) (emphasis added).

⁸ Joint Petition for Rulemaking of National Association of Broadcasters et al. at 17, GN Docket No. 16-142 (filed Apr. 13, 2016) (emphasis added).

⁹ *Id.* (emphasis added).

public will simply have to live with such disenfranchisement. “Simulcasting,” they now argue, “will not always be practical or even possible.”¹⁰ In such cases, the Commission should allow broadcasters to simply cease transmitting in the current format.¹¹

So if you receive off-air signals today, and you lack new equipment to receive ATSC 3.0 signals from a broadcaster that decides simulcasting is not “practical,” the broadcasters now have the same answer they once accused the Commission of having: “Too bad.” This is also the broadcasters’ answer to those relying on off-air signals who happen to live within a station’s service contour but outside of the smaller service contour upon which the station decides to simulcast.¹² Likewise to those who receive off-air HD signals today but would receive only SD signals from a simulcast.¹³ And likewise to MVPDs in each of these situations that rely on off-air delivery.

If “too bad” is an unacceptable response to potential service losses caused by the repack or white spaces, it is surely an unacceptable response to potential service losses caused by a broadcaster’s *voluntary* transition to a new transmission standard—especially for broadcasters who undergo the transition in order to open up new revenue streams unrelated to broadcasting.

Broadcasters like to claim that “there is no substitute for broadcasters’ service to their local communities.”¹⁴ To the extent this is true, the rules governing the ATSC 3.0 transition must reflect this claim and protect viewers from losing this irreplaceable service. ACA and the American Television Alliance (of which ACA is a member) have offered reasonable suggestions

¹⁰ Letter from Jerald Fritz to Marlene Dortch at 3, GN Docket No. 16-142 (filed July 3, 2017).

¹¹ *See id.* While broadcasters elsewhere seek additional time to institute the repack, they argue here that that viewers and MVPDs should be given *no* time to prepare for ATSC 3.0-related changes. *See, e.g.,* Comments of ONE Media LLC at 1, GN Docket No. 16-142 (filed May 9, 2017) (asking “the Commission to open the gates and let us meet the evolving needs of consumers and broadcasters” and urging the Commission to “*expeditiously approv[e]* technical improvements incorporated into standards that have been subjected to the engineering crucible of the ATSC”) (emphasis in original). Likewise, while broadcasters elsewhere seek additional funds to help defray repack-related costs, they argue here that MVPDs should receive no reimbursement for the costs that broadcasters impose upon them as part of the ATSC 3.0 transition. *See, e.g.,* Reply Comments of the National Association of Broadcasters at 15, GN Docket No. 16-142 (filed June 8, 2017) (arguing that MVPDs costs have “no bearing on this proceeding because carriage of Next Gen signals will not be mandated.”).

¹² *See* Comments of the American Cable Association at 7, GN Docket No. 16-142 (filed May 9, 2017) (“ACA Comments”).

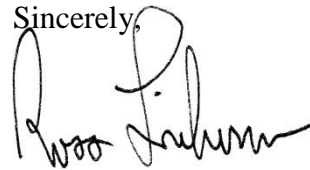
¹³ *See id.* at 5.

¹⁴ National Association of Broadcasters, *114th Congress Broadcasters’ Policy Agenda* at 3 (2015), <https://www.nab.org/documents/advocacy/NAB2015BroadcastersPolicyAgenda.pdf>.

about how to ensure that the transition does not “disenfranchise viewers,” as broadcasters originally promised.¹⁵ We again urge the Commission to consider those suggestions.

* * *

In accordance with the Commission’s rules, I will submit one copy of this electronically in GN Docket No. 16-142.

Sincerely,


Ross J. Lieberman

¹⁵ See ACA Comments; *see also* Comments of the American Television Alliance at 7, GN Docket No. 16-142 (May 9, 2017).