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VIA ECFS

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

Re: Ex Parte Communication of the American Cable Association; Assessment and Collection of Regulatory Fees for Fiscal Year 2018, MD Docket No. 18-175.

Dear Ms. Dortch:

On August 23, 2018, I met with Kate Black, Policy Advisor to Commissioner Rosenworcel, on behalf of the American Cable Association (“ACA”) to discuss the Commission’s Notice of Proposed Rulemaking on the Assessment and Collection of Regulatory Fees for Fiscal Year 2018.¹ In the meeting, I expressed ACA’s appreciation of the Commission’s continuing efforts to reduce the unwarranted disparity in the regulatory fees paid by DBS and cable/IPTV. ACA has long advocated for the assessment of regulatory fees for the Media Bureau’s regulation and oversight of MVPD services on a technology-neutral basis. Addressing the continuing disparity sooner rather than later would mean that ACA members are no longer unfairly forced to subsidize their much larger DBS competitors, and would eliminate a competitive advantage that DBS providers currently have over cable/IPTV providers.

ACA’s long held view is that, rather than continue increasing the DBS fee on an incremental basis to move it closer to parity with the cable/IPTV fee, the Commission should dispose of its current two-tier system and establish a single MVPD fee category for DBS, cable, and IPTV operators. If, in its pending Order, the Commission instead elects to adopt the regulatory fees proposed in the NPRM, ACA urges the Commission to state expressly that *its end goal is fee parity between DBS and cable/IPTV providers*, and that this year’s DBS rate increase is a step in that direction. Additionally, the Commission should reiterate that regulatory fees are not assessed according to the relative impact of regulation,² or

¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2018*, Report and Order and Notice of Proposed Rulemaking, MD Docket No. 18-175 (rel. May 22, 2018) (“NPRM”).

² As the Commission explained in its decision to include interconnected VoIP providers in the category of interstate telecommunications providers despite differences in the regulatory treatment of provider types, “Section 9 does not require the Commission to engage in a company-by-company assessment of relative regulatory costs.” *Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 15712, ¶ 19 (2007) (“FY 2007 Order”).

“the particular number of FTEs focused solely on” a particular type of regulatee,³ but rather that “regulatory fee assessments are based on the burden imposed on the Commission,”⁴ and that the burden on Media Bureau FTEs of regulating and overseeing DBS and cable/IPTV providers continues to be “roughly the same.”⁵ The Commission should also reject the argument that a DBS fee increase that amounts to a few pennies per subscriber per month would cause “rate shock.”

Finally, the Commission should dismiss DBS providers’ inaccurate claim that “among MVPDs, DBS providers alone pay other regulatory fees.”⁶ Many cable operators pay regulatory fees related to the operation of Cable Television Relay Services (CARS),⁷ and as discussed above, MVPDs’ regulatory fees are assessed according to the burden imposed on Media Bureau FTEs, so any other regulatory fees are irrelevant.

This letter is being filed electronically pursuant to section 1.1206 of the Commission’s rules.

Sincerely,



Mary C. Lovejoy

cc: Kate Black

³ *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7057, ¶ 23 (2017) (“FY 2017 Order”).

⁴ FY 2007 Order, ¶ 19.

⁵ FY 2017 Order, ¶ 20; *see also Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 10268, ¶ 33 (2015) (“[A]lthough DBS is not identical to cable television and IPTV, the services all receive oversight and regulation as a result of the work of Media Bureau FTEs on MVPD issues. The burden imposed on the Commission is therefore similar.”); *Assessment and Collection of Regulatory Fees for Fiscal Year 2016*, Report and Order, 31 FCC Rcd 10339, ¶ 30 (2016) (“We reiterate that the DBS and cable television/IPTV oversight and regulatory work of Media Bureau FTEs is similar.”).

⁶ Letter from Frank S. Simone, Vice President, Federal Regulatory, AT&T Services, Inc. to Marlene Dortch, Secretary, Federal Communications Commission, MD Docket No. 18-175 (filed Aug. 23, 2018).

⁷ The proposed fee for a CARS license for FY 2018 is \$1,075. NPRM, Appendix A.