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February 12, 2015

**Via ECFS**

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

**Re: Assessment and Collection of Regulatory Fees for Fiscal Year 2014, MD  
Docket Nos. 14-92, 13-140, 12-201**

Dear Ms. Dortch:

On February 10, 2015, Ross J. Lieberman, Senior Vice President of Government Affairs, American Cable Association (“ACA”), and the undersigned, representing ACA, together with Neal Goldberg, General Counsel, National Cable & Telecommunications Association (“NCTA”) and Tara Corvo, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., representing NCTA, met with Maria Kirby, Legal Advisor to Chairman Wheeler for Media, Consumer and Governmental Affairs, and Enforcement. We discussed our support for assessment of regulatory fees on Direct Broadcast Satellite (“DBS”) operators based on the Media Bureau full-time equivalents (“FTEs”) performing work related to regulating these entities as multichannel video programming distributors (“MVPDs”), consistent with their prior filings in the above referenced dockets.<sup>1</sup>

During the meeting, representatives for ACA and NCTA reiterated that, because DBS operators receive numerous regulatory benefits from the activities of the Media Bureau, cable operators and Internet Protocol TV (“IPTV”) providers should not be the only MVPDs to support Media Bureau MVPD regulatory activities through fee payments. Cable, IPTV and DBS, while not identical, are all quite similar and benefit in a similar fashion from Media Bureau regulation as MVPDs.<sup>2</sup> For this reason, and to be evenhanded and maintain competitive and technological neutrality, the Commission should assess regulatory fees on DBS providers DirecTV and DISH

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<sup>1</sup> *Procedures for Assessment and Collection of Regulatory Fees for Fiscal Year 2014, Assessment and Collection of Regulatory Fees for Fiscal Year 2013, Procedures for the Assessment and Collection of Regulatory Fees*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 10767, ¶¶ 38-43 (2014) (“*Second Further Notice*”); *Procedures for Assessment and Collection of Regulatory Fees for Fiscal Year 2014, Assessment and Collection of Regulatory Fees for Fiscal Year 2013, Procedures for the Assessment and Collection of Regulatory Fees*, Comments of the National Cable & Telecommunications Association and the American Cable Association, MD Docket Nos. 14-92, 13-140, 12-201 (filed Nov. 26, 2014) (“*NCTA/ACA Comments*”); *Procedures for Assessment and Collection of Regulatory Fees for Fiscal Year 2014, Assessment and Collection of Regulatory Fees for Fiscal Year 2013, Procedures for the Assessment and Collection of Regulatory Fees*, Reply Comments of the National Cable & Telecommunications Association and the American Cable Association, MD Docket Nos. 14-92, 13-140, 12-201 (filed Dec. 26, 2014) (“*NCTA/ACA Reply Comments*”).

<sup>2</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2013, Procedures for the Assessment and Collection of Regulatory Fees*, Report and Order, 28 FCC Rcd 12351, ¶¶ 32-33 (2013) (“*FY 2013 Regulatory Fees Order*”) (including cable operators and IPTV providers in the same Media Bureau fee category despite certain differences on the basis that they benefit equally from Media Bureau MVPD regulatory activities).

Network, two of the largest MVPDs, on the same basis the FCC assesses those fees on cable and IPTV providers. ACA and NCTA suggested that in the short term, the Commission could do so by simply adding DBS to the existing “cable television systems and Internet Protocol TV service providers” (“Cable/IPTV”) fee category in the same way that it added IPTV to the “Cable TV” category in its FY 2013 Regulatory Fees Order.<sup>3</sup> They repeated their view that ultimately, the best solution is for the Commission to adopt a new fee category for MVPDs.<sup>4</sup>

ACA and NCTA reiterated their position that the entire burden of Media Bureau FTE support for MVPD services can no longer be imposed on cable and IPTV providers – and their customers--alone. In a market as competitive as the MVPD market, continuing to require only cable and IPTV providers to support Media Bureau MVPD regulation places cable and IPTV providers at a competitive disadvantage vis-a-vis their DBS competitors. Not only must cable and IPTV providers effectively cross-subsidize the regulatory fee burden of their direct competitors, but their subscribers are forced to help shoulder this burden when this cost of service is passed through, in whole or in part, to those customers. Placing 100% of the MVPD regulatory fee burden on cable and IPTV providers and their subscribers when they represent less than 60% of the total MVPD marketplace is simply inequitable.<sup>5</sup>

ACA and NCTA observed that although assessing regulatory fees on the DBS providers at the same rates applicable to cable and IPTV operators could result in substantial annual fee increases for the DBS operators, DirecTV and Dish, multi-billion dollar corporations and the nation’s second and third largest MVPDs, should be able to absorb the increased costs with minimal disruption to their operations and no threat to their operational viability.

In addition, ACA and NCTA repeated their position that if DBS providers are assessed regulatory fees similar to the fees paid by cable and IPTV providers, DBS should not receive an off-set based on payments made to the International Bureau.<sup>6</sup> They noted that regulatory fee assessments for Media Bureau support should be fairly allocated among all MVPDs that use the Bureau. There is no logical reason to provide an offset for fees some MVPDs pay to support other bureaus for other regulatory services; no offset is given to cable operators or IPTV operators for fees paid for CARS licenses they may use in delivering their video services. Regulatory fees for satellite services paid by DBS providers support International Bureau FTEs. These fees reflect the burden that the DBS providers impose on that Bureau. Those fees should not and need not be off-set by reducing the fees DBS providers pay to support Media Bureau FTEs.

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<sup>3</sup> As discussed in their comments, ACA and NCTA do not support the proposal to create of a separate DBS Fee category because it is unnecessarily complicated and inconsistent with precedent. See NCTA/ACA Comments at 8-12, Attachment A (summarizing filings from DirecTV and Dish in Media Bureau Dockets in the Commission’s Electronic Comment Filing System); *Second Further Notice*, ¶ 38.

<sup>4</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Comments of the National Cable & Telecommunications Association, MD Docket No. 05-59, at 2-13 (filed Mar. 8, 2005); *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Reply Comments of the American Cable Association, MD Docket No. 05-59, at 4-5 (filed Mar. 18, 2005). See also *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Reply Comments of the National Cable & Telecommunications Association, MD Docket No. 14-130, at 2-5 (filed June 26, 2013); *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Comments of the American Cable Association, MD Docket No. 14-130, at 13-19 (filed June 19, 2013); *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Reply Comments of the American Cable Association, MD Docket No. 14-130, at 2-6 (filed June 26, 2013).

<sup>5</sup> See NCTA/ACA Comments at 13-14; NCTA/ACA Reply Comments at 14.

<sup>6</sup> NCTA/ACA Comments at 12-13; NCTA/ACA Reply Comments at 8-9.

Finally, participants discussed various means at the Commission's disposal to avoid "rate shock." ACA and NCTA observed that, in the past, the Commission avoided rate shock when it began assessing fees on IPTV providers and VoIP service providers (despite the substantial increase in fees for each of those providers) by announcing the decision in one year but waiting until the following year's regulatory fee collection to begin collecting the fees, and that it could pursue the same approach here. They reiterated their position that, to the extent the Commission is concerned that DBS operators may be harmed by too rapid an increase in regulatory fees, assessing regulatory fees on DBS providers similar to the fees paid by cable and IPTV providers could be accomplished over a series of years by, for example, charging one-third the rate in the first year, two-thirds the rate in the second year, and the full rate in the third year.<sup>7</sup>

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

Sincerely,



Barbara Esbin

cc: Maria Kirby

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<sup>7</sup> NCTA/ACA Comments at 14-15; NCTA/ACA Reply Comments at 4, 19 n.48.