



April 28, 2015

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th 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 April 24, 2015, Ross J. Lieberman, Senior Vice President of Government Affairs, American Cable Association (“ACA”), and the undersigned, representing ACA, met first with Martha Heller, Acting Legal Advisor – Media to Commissioner Clyburn, and second with Valery Galasso, Policy Advisor to Commissioner Rosenworcel, to discuss our support for the 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 prior filings that ACA and the National Cable & Telecommunications Association (“NCTA”) have made in the above referenced dockets.¹ On April 27, 2015, Mr. Lieberman and Ms. Esbin, representing ACA, and Tara Corvo, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., representing NCTA, met first with Maria Kirby, Legal Advisor to Chairman Wheeler for Media, Consumer and Governmental Affairs, and Enforcement, and next with Robin Colwell, Chief of Staff and Senior Legal Advisor, Media to Commissioner O’Rielly to discuss the same matters.

During the meetings, 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 operators, while not regulated identically, are all quite similar and benefit in a similar fashion from Media Bureau regulation of MVPDs.² For this reason, and to maintain competitive and technological neutrality, the

¹ *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*, MD Docket Nos. 14-92, 13-140, 12-201, Reply Comments of the National Cable & Telecommunications Association and the American Cable Association (filed Dec. 26, 2014) (“NCTA/ACA Reply Comments”); Comments of the National Cable & Telecommunications Association and the American Cable Association (filed Nov. 26, 2014) (“NCTA/ACA Comments”).

² 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) (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).

Commission should assess regulatory fees on DBS operators on the same basis that the FCC assesses those fees on cable operators and IPTV providers. While they welcome inclusion of DBS in the current Cable/IPTV fee category, ACA and NCTA repeated their view that ultimately, the best solution is for the Commission to adopt a new fee category for all MVPDs.³

Participants discussed various means at the Commission's disposal to avoid "rate shock," including the proposal in the FNPRM to assess DBS operators a "much lower rate than that for other MVPDs, such as one-tenth of anticipated revenue" if DBS were included in a Cable/IPTV/DBS fee category.⁴ ACA and NCTA reiterated their position that, to the extent the Commission is concerned that the DBS operators may be harmed by too rapid an increase in regulatory fees, assessing regulatory fees on DBS operators similar to the fees paid by cable operators and IPTV providers could be accomplished over a series of years by, for example, charging a percentage of the total in the first year, with DBS ramping up to the full rate over a three-year period.⁵ Mr. Lieberman also noted that both DBS operators are multi-billion dollar corporations that can easily absorb the increased costs with minimal disruption to their operations and no threat to their operational viability, and that if they choose to pass through these fees to their subscribers, the pass-through cost to DBS customers will amount to only \$0.06 per subscriber per month or between 0.06% and 0.07% of DIRECTV and DISH customers' bills, respectively.⁶

Finally, ACA and NCTA urged the Commission to make clear in the Order that even if DBS is assessed a lower rate in the initial year of inclusion in the Cable/IPTV/DBS fee category, that rate will be adjusted upward over time to achieve parity among payors in that category.

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

Sincerely,



Barbara Esbin

cc: Martha Heller
Valery Galasso
Maria Kirby
Robin Colwell

³ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, MD Docket No. 05-59, Comments of the National Cable & Telecommunications Association at 2-13 (filed Mar. 8, 2005); Reply Comments of the American Cable Association at 4-5 (filed Mar. 18, 2005). See also *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, MD Docket No. 14-130, Reply Comments of the National Cable & Telecommunications Association at 2-5 (filed June 26, 2013); Reply Comments of the American Cable Association at 2-6 (filed June 26, 2013); Comments of the American Cable Association at 13-19 (filed June 19, 2013).

⁴ Second Further Notice, ¶ 41. The Second Further Notice posited that this approach would "recognize the International Bureau FTE fees DBS operators will continue to pay as well as the Media Bureau FTEs related to DBS regulation." *Id.* During the meeting with Ms. Colwell, ACA and NCTA acknowledged that DBS operators pay fees to support work of the International Bureau concerning satellites, but noted that cable operators and IPTV providers pay fees for CARS licenses they may use in delivering their video services in addition to per-subscriber regulatory fees to support Media Bureau MVPD regulation.

⁵ NCTA/ACA Comments at 14-15; NCTA/ACA Reply Comments at 4, 19 n.48.

⁶ See NCTA/ACA Comments at 13 n.30.