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VIA ELECTRONIC FILING

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

**Re: Annual Assessment of the Status of Competition in the Market
for the Delivery of Video Programming, MB Docket No. 06-189**

Dear Ms. Dortch,

On November 14, NCTA submitted a letter in response to recent press reports that the Commission may be considering in its forthcoming Annual Report on Video Competition a finding that the 70/70 test in section 612(g) of the Communications Act has been met. In its letter, NCTA reiterates its contention that the 70/70 test has not been met. It bases this contention, however, entirely on 3rd party estimates of cable penetration and subscribership, notwithstanding that the cable companies – and the cable companies alone -- possess the actual facts regarding cable penetration and subscribership that would reveal whether the 70/70 test has, in fact, been met.

As AT&T has previously noted, it is troubling in any context when those who are in sole possession of, and could readily provide the actual facts on the ground choose to withhold them and rely instead on third party estimates of those facts. Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, *MB Docket No. 05-255*, AT&T Comments at 4-5 (April 3, 2006); *AT&T Reply* at 4 (April 25, 2006). And, as AT&T has argued, it is appropriate and logical for the Commission to cast a dubious eye on the claims of those who pursue this course. At a minimum, in these circumstances, the Commission must independently assess the facts based on the best available data. And as we have previously observed, based on that data the Commission could reasonably conclude that the 70/70 threshold has been met.

Sincerely,

A handwritten signature in cursive script that reads "Robert W. Quinn, Jr.".

Robert W. Quinn, Jr.