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May 30, 2012

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules, CS Docket No. 98-120**

Dear Ms. Dortch:

On May 25, 2012, Michael Schooler, Vice President & Deputy General Counsel, and I met with Holly Saurer, Legal Advisor to Commissioner Rosenworcel, and separately with Matthew Berry, Chief of Staff to Commissioner Pai, to discuss the above-referenced proceeding. Consistent with NCTA's comments, we urged the Commission to allow the dual carriage/viewability rule to expire as intended and to extend the small system exemption to the requirement that HD must carry signals be carried in HD.

We discussed how allowing the dual carriage/viewability rule to sunset will free up valuable cable capacity for other services that benefit consumers, such as improved broadband and carriage of additional niche and HD programming. Indeed, we pointed out that each 6 MHz of cable capacity used to provide a single analog version of a digital must carry signal can support multiple digital programming streams or non-video services. In addition, we discussed how cable operators will continue to make must carry signals viewable to analog cable customers if the FCC sunsets the "dual carriage" requirement. That requirement currently forces cable operators to devote significant cable capacity to carriage of each must carry station in both analog and digital format. NCTA explained that cable customers will not be harmed if the rule expires at the end of the three year period. While some must-carry stations may no longer be carried in analog format, all must-carry stations will continue to be carried in digital format on the Basic Service Tier. To receive a digital must carry station for viewing on an analog television set, cable customers in "hybrid" (digital and analog) cable systems will need only to lease a digital set-top box. We reiterated that those boxes are readily available and that cable operators commonly offer them to analog customers at low cost.

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In our meeting with Mr. Berry, we also discussed the legal authority for the small system exemption, which, as explained in NCTA's Reply Comments (pp. 6-7), can be found, in Section 614(b)(4)(A)'s directive that the Commission "shall adopt carriage standards to ensure that, *to the extent technically feasible*, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal." (Emphasis added.) *See* Fourth Report and Order, CS Docket No. 98-120, 23 FCC Rcd 13618, 13620 (2009). *See also* Section 614(b)(4)(B) (directing the Commission to establish any changes in the must carry rules necessary to ensure carriage of stations that have been changed to conform to new "advanced television" – *e.g.*, digital – standards).

Respectfully submitted,

**/s/ Rick Chessen**

Rick Chessen

cc: H. Saurer  
M. Berry