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June 11, 2012

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th 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:

NCTA files this letter in response to some of the assertions contained in the NAB's recent *ex parte* letter in this docket.¹ In its letter, NAB backtracks on its position that cable operators can comply with the viewability provision of the statute by offering free digital converter boxes to customers in hybrid analog-digital cable systems. As part of its effort to justify this change in position, NAB raises questions about the adequacy and availability of digital transport adapters ("DTAs"), which have been a critical component of many cable systems' digitization efforts.² NAB's concerns are without merit.

First, NAB cites to statements on a website – www.bocesco.com – for the proposition that DTAs do not provide an adequate solution for cable customers with analog TVs to access digital cable service. NAB mischaracterizes the statements on the website. The website compares DTAs with full-service digital cable boxes (i.e., boxes that can access two-way services and output HD video), and recommends that digital cable customers utilize a full-service digital box on their primary TV outlet. That comparison is irrelevant to the cable customers at issue in the viewability proceeding – namely analog customers who do not have any DTAs or set-top boxes at all and currently receive cable service directly on their analog TV sets. Those customers do not need an HD-capable box since they are watching cable service on analog TVs that have no HD capability.³ The website does not suggest that using a DTA would somehow be inferior to the customer's current analog TV viewing experience.⁴

¹ See Letter from Jane Mago, Executive Vice President & General Counsel, NAB, to Marlene H. Dortch, Secretary, FCC, CS Dkt. No. 98-120 (June 8, 2012).

² See *id.* at 2 n.5.

³ Nor do analog basic service tier customers expect the two-way capability of more advanced set-top boxes; for those consumers, DTAs should accommodate their needs.

⁴ Contrary to NAB's claim, DTAs *do* provide a "simple solution" for customers with analog TVs. For example, Comcast typically mails DTAs to customers as part of a simple self-install kit, and reports that more than 80% of customers have chosen to self-install their DTAs. See Comcast Comments, MB Dkt. 11-169, at 5 (Nov. 28, 2011).

Nor do NAB's other claims about the alleged shortcomings of DTAs withstand scrutiny. For example, NAB notes that the DTA outputs analog video on channels 3 or 4 and comes with a separate remote control, and seems to suggest these features result in an inferior user experience. But these features are commonplace for set-top boxes that connect to analog TV sets, including boxes offered by other MVPDs as well as the millions of converter boxes deployed to consumers as part of the broadcasters' DTV transition.⁵ Given that those features were perfectly acceptable for the broadcasters' own DTV transition, it is odd to say the least for NAB to object to them now.

Finally, NAB alleges that there is an "apparent unavailability" of DTAs in the marketplace, based on a recent set-top box waiver order involving Baja Broadband.⁶ Here again, NAB misstates the facts. Analog customers typically use standard-definition DTAs to access digital cable services on their analog TVs. There is no shortage of such DTAs in the marketplace. In fact, cable operators have deployed tens of millions of such DTAs to date, and these DTAs are in plentiful supply from a variety of vendors. The types of DTAs referenced in the *Baja Broadband Waiver Order* – HD DTAs – are just now coming to market and are expected to become more widely available in coming months.

NAB's view that any equipment-based solution for analog customers "would present barriers to access" ignores these marketplace facts.⁷ Cable customers are rapidly adopting digital technology. As we have explained previously in this docket, approximately 80% of cable households nationwide now subscribe to digital cable – and thus can view any broadcast stations carried on the basic service tier in digital format – and an increasing number of cable systems are now entirely digital. DTAs have been critical to these transition efforts by providing a simple low-cost way for analog customers to access digital services. The cable industry has made clear its commitment to continuing to provide such low-cost equipment options to customers.

The cable industry has a proven track record in helping the American people make the transition from analog to digital television service. Even though it was not our own transition, the cable industry stepped up during the broadcast DTV transition to ensure that it went as smoothly as possible for consumers. Among other things, the cable industry provided \$8 million for call center resources to help consumers during the switch-over period. The cable industry also agreed to carry must-carry broadcast signals in both digital and analog format during a temporary three-year period following the transition to avoid any unnecessary consumer confusion between the over-the-air transition and cable's own digital transition.

⁵ It also is worth noting that, the remote controls provided with the DTA are typically programmed to control both the DTA and TV, so the consumer is using a *single* remote to control the DTA (for channel tuning) and TV (for power, volume, and muting). The DTA remotes were specifically designed to be as simple as possible, and are generally easier to use than remotes included with TVs at retail.

⁶ See *Baja Broadband Waiver Order*, DA No. 12-899 (rel. June 7, 2012).

⁷ Taken to its logical extreme, NAB's position would appear to mean that must-carry signals must always be viewable directly on analog TVs without any set-top box and, consequently, that operators could never go all-digital until all analog TV sets are retired.

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Now that three-year transition period is expiring and the cable industry needs to focus on its own DTV transition,⁸ NAB's arguments should be rejected. The current dual carriage/"viewability" rule should be permitted to expire as planned.

Sincerely,

/s/ Rick Chessen

Rick Chessen

cc: The Honorable Julius Genachowski
The Honorable Robert McDowell
The Honorable Mignon Clyburn
The Honorable Jessica Rosenworcel
The Honorable Ajit Pai
Susan Aaron
Evan Baranoff
Matthew Berry
Steven Broecker
Michelle Carey
Lyle Elder
Dave Grimaldi
Sean Lev
Erin McGrath
Holly Saurer
Austin Schlick
Sherrese Smith

⁸ Unfortunately, the broadcasters' increasingly brazen demands raise questions about whether they intend to play a constructive role in the cable digital transition similar to the one that cable played in the broadcasters' transition.