

October 23, 2013

**VIA ECFS**

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

Re: *Notice of Ex Parte Presentation*  
*MB Docket No. 12-108*

Dear Ms. Dortch:

On October 21, 2013, Alison Minea and Hadass Kogan of DISH Network L.L.C. (“DISH”), Stacy Fuller of DIRECTV, Brad Gillen of Wilkinson Barker Knauer, LLP, on behalf of EchoStar Technologies L.L.C. (“EchoStar”), and Bill Wiltshire of Wiltshire & Grannis LLP, counsel to DIRECTV, met separately with Sarah Whitesell and Brendan Murray of the Office of Chairwoman Clyburn, Holly Saurer of the Office of Commissioner Rosenworcel, and Matthew Berry and Jeffrey Neumann of the Office of Commissioner Pai. The purpose of each of these meetings was to underscore certain arguments previously raised in the record by DISH, EchoStar, and DIRECTV with respect to the Commission’s above-referenced proceeding to implement the 21<sup>st</sup> Century Communications and Video Accessibility Act (“CVAA”). Specifically, the participants discussed the following points:

*Accessibility of MVPD applications and software on third-party devices.* The requirements of Section 205 do not apply to apps and other software developed by MVPDs for third-party devices, because the term “navigation device” – as defined in the Commission’s rules, interpreted by the Commission, and subsequently incorporated by Congress into Section 205 – relates to equipment, not to free-standing software. Moreover, software developers would face significant practical difficulties if required to modify their applications to ensure compliance on the full range of third-party devices capable of displaying video programming.

*Essential functions.* Not all 11 functions identified as “essential” by the VPAAC may be appropriate for Section 205 devices. For example, the “power on/off” and “volume adjust/mute” controls are not related to the display or selection of programming.

Ms. Marlene H. Dortch  
October 23, 2013  
Page 2

*Verification of need for accessible devices.* MVPDs must be able to require a reasonable level of documentation from a requesting subscriber to substantiate that she is blind or visually impaired.

*Access to closed captioning functionality.* The statutory requirement to provide access to closed captioning functionality in a manner “reasonably comparable” to a button, key, or icon should apply only with respect to requesting subscribers, and the CVAA affords covered entities maximum flexibility with regard to the selection of a mechanism to comply with this requirement.

*Notification to subscribers of availability of accessible equipment.* The CVAA does not authorize the Commission to require MVPDs and other covered entities to notify customers that accessible program guides and menus are available upon request. If the Commission nevertheless opts to require notification, it should establish minimal and flexible requirements that would permit notification by, for example, a link available on an MVPD’s home page.

Pursuant to section 1.206(b)(1) of the Commission’s rules, 47 C.F. R. § 1.1206(b)(1), this *ex parte* notification is being filed for inclusion in the public record of the above-referenced proceeding. Please direct any questions to the undersigned.

Respectfully submitted,

/s/ Natalie G. Roisman  
Natalie G. Roisman

cc: Sarah Whitesell  
Brendan Murray  
Holly Saurer  
Matthew Berry  
Jeffrey Neumann