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VIA ECFS

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

Re: *Ex Parte* Communication of the American Cable Association; Channel Lineup Requirements – Sections 76.1705 and 76.1700(a)(4), MB Docket No. 18-92; Modernization of Media Regulation Initiative, MB Docket No. 17-105

Dear Ms. Dortch:

On December 20, 2018, Ross Lieberman, Senior Vice President of Government Affairs, American Cable Association (“ACA”), and I met via telephone with Holly Saurer, Martha Heller, Kim Matthews, and Andrew Manley of the Media Bureau to discuss ACA’s comments on the Commission’s Notice of Proposed Rulemaking on Channel Lineup Requirements.¹

During the call, ACA reiterated its position that Commission rules requiring cable operators to maintain channel lineups in their local office and in their online public inspection file should be eliminated.² ACA explained that these rules are no longer necessary because all cable operators have significant competitive incentives to make information on channel lineups as widely available as possible in order to attract and retain customers.

ACA emphasized that if the Commission elects only to eliminate the requirement that operators maintain channel lineups in their local office, under no circumstances should it create a *new* obligation on cable systems with 1,000 or fewer subscribers to post their channel lineups in an online public inspection file or other government-run database. As detailed in ACA’s comments, like large cable system operators, very small systems, which are not currently

¹ *Channel Lineup Requirements – Sections 76.1705 and 76.1700(a)(4)*, Notice of Proposed Rulemaking, 33 FCC Rcd 4323 (2018).

² See generally, *Channel Lineup Requirements – Sections 76.1705 and 76.1700(a)(4)*, Comments of the American Cable Association, MB Docket Nos. 18-92 and 17-105 (filed May 31, 2018).

required to maintain an online public inspection file, provide channel lineup information on their company websites and other publicly available platforms,³ so there is no need to impose new recordkeeping requirements in order to ensure that the information remains widely available. Moreover, whatever small public benefit might accrue from such a requirement (and ACA believes that there is none) would be far outweighed by the regulatory burden on the few very small cable systems that remain in operation – which are mostly unprofitable, and thus declining in number, and which serve a very small percentage of all MVPD subscribers. Requiring systems with fewer than 1,000 subscribers to post their channel lineups on a government-run site would not only fly in the face of Commission precedent recognizing the unique constraints faced by small cable operators,⁴ and concerns about hastening their demise,⁵ it would contravene the deregulatory purpose of the Commission’s Media Modernization Initiative.⁶

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

Sincerely,



Mary C. Lovejoy

Cc: Holly Saurer
Martha Heller
Kim Matthews
Andrew Manley

³ *Id.* at 4.

⁴ *Amendment of Part 76 of the Commission's Rules and Regulations with Respect to the Definition of a Cable Television System and the Creation of Classes of Cable Systems*, First Report and Order, 63 FCC.2d 956, ¶ 66 (1977) (exempting small cable systems from public inspection file requirements).

⁵ *Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty First Century Communications and Video Accessibility Act of 2010*, Memorandum Opinion and Order, 33 FCC Rcd 5059, ¶ 7 (2018) (providing relief to analog cable systems based on concerns that compliance would force them to shut down prematurely, resulting in a loss to existing customers); *see also Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, Fifth Report and Order, 27 FCC Rcd 6529, ¶ 21 (2012). Chairman Pai has also specifically expressed concern that over-regulation of very small cable systems could lead to their eventual shutdown. *Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 4871, Statement of Commissioner Ajit Pai (2013).

⁶ *Commission Launches Modernization of Media Regulation Initiative*, Public Notice, 32 FCC Rcd 4406 at 1 (2017) (“The objective of this proceeding is to eliminate or modify regulations that are outdated, unnecessary or unduly burdensome.”).