

*Responses from Marci Burdick to questions submitted subsequent to the
June 12, 2013 hearing entitled,
“The Satellite Television Law: Repeal, Reauthorize, or Revise?”*

To the Honorable Anna Eshoo:

- 1. Your company is a member of the Mobile500 Alliance, a group that promotes “mobile DTV.” I think that the service offers consumers many benefits, including not needing a wireless data plan or requiring a monthly subscription. However, it has been several years since mobile DTV devices were first unveiled but the service has not been widely launched. What do you think are the barriers to widespread adoption by both broadcasters and consumers? Do you think consumers are willing to make this investment when they can easily stream Internet-based video using their existing mobile devices?**

TV broadcasters generally, and my company specifically, are still very excited about the prospects for mobile DTV. And while the launch of a ubiquitous service has been slower than many of us would like, we have made significant strides in the last year and we are receiving encouraging signs from the marketplace. As you note, mobile DTV offers consumers a very attractive alternative to Internet-based content on your phone. It is currently free to access, includes compelling broadcast content, and it does not chew through your monthly data allotment the way that watching Netflix or YouTube might. One of the most important benefits of mobile DTV is the ability to access emergency information when you need it – and not just a text that tells you to access local media when a storm is bearing down on your community. Mobile DTV *is the media*, and it is available even when wireless broadband networks crash as they do when usage massively spikes during a crisis, like they did during the Boston Marathon bombings or the Oklahoma tornados. Mobile DTV may not be the first feature you look for in a smartphone, but during an emergency, it may be the most important feature you have.

There are no hard barriers to more widespread usage but market forces move at their own pace. Smartphone manufacturers take their design cues from the needs and desires of the wireless companies. Those wireless companies do not have clear economic incentives to include mobile DTV on smartphones because more eyeballs on mobile DTV equals fewer of their customers using data-hungry video applications. And as the trend toward metered data pricing makes clear, wireless companies see America’s addiction to data-chomping applications as a financial windfall. Without some kind of a forcing function the rollout of mobile DTV is likely to continue in incremental fashion. Many broadcasters are broadcasting mobile DTV service across the country and more are joining them. It is there to be viewed. Getting mobile DTV enabled in in more consumer smart phones would significantly accelerate the consumer adoption process.

2. **Last month, Senator Gordon Smith, President and CEO of the NAB said in response to a question by Senator Warner that the Constitution includes protection for copyright. He went on to say, “If you have copyrighted material, rights go with that, that deserve compensation when others use it.” Do you agree with Senator Smith that copyrighted material deserves compensation? If so, shouldn’t radio fairly compensate artists for the use of their copyrighted material?**

For decades, record labels and artists have received compensation for their works through the unparalleled value of radio airplay. Labels and performing artists profit from the free exposure provided by radio airplay, as well as from on-air interviews and promotions of local concerts and new albums.

Because broadcast radio is the primary promotional vehicle for music, the recording industry invests money promoting songs in order to garner radio airplay, and receives revenues when audiences like and purchase the music they hear. Artists consistently recognize the fact that radio airplay is invaluable, both for new artists and established artists with classic hits. The fact that record labels and artists are compensated through the tremendous value of radio airplay is one of the many reasons Congress has repeatedly refused to institute a performance tax that would alter the fundamental nature of the long-standing, symbiotic relationship between the music and radio industries.

To the Honorable Mike Doyle

1. **What are the technical or legal limitations that prevent video providers in the United States from offering DVR services that automatically record live events from beginning to end regardless of whether the event is extended due to delays or overtime?**

While this is not an issue that NAB or my company has been actively working on, it is clear that an overhaul of DVR functionality would require a multi-industry effort involving broadcasters, cable companies, satellite companies, consumer electronics manufacturers, and the companies that provide programming guide data to multichannel video programming distributors. Program guide information for DVRs in this country is compiled and distributed by third parties; it does not come directly from broadcasters. My understanding is that it takes significant time (an hour or more at least) for submitted schedule changes from a broadcaster to propagate through the system and be delivered to user devices. So, while broadcasters may be able to provide up to date timing information, the overall system that feeds DVRs is not responsive in anything near real time.

2. **During the NHL playoffs, games went into single, double, and triple overtime. Viewers that time shifted these games largely had to guess when they would end. I understand that video providers in Europe receive real-time flagging information from content providers that alert DVR systems to the start and end of programming, what impediments prevent a similar system from being widely deployed in the United States?**

The European experience is different than the American experience for many reasons. Europe uses a different technical system and the business relationships between the various parts of the delivery chain are different as well.

3. **What can Congress or the FCC do to help enable this functionality?**

Unlike other countries, with limited exceptions, DVRs in this country are not regulated. For Congress or the FCC to help enable this functionality they would have to convince or require the broadcasters, cable companies, satellite companies, consumer electronics manufacturers, and the companies that provide programming guide data to multichannel video programming distributors to change the technical standards in current use so that program information could be delivered and implemented in real time.