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Government Affairs

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VIA EMAIL AND MAIL DELIVERY

The Honorable Greg Walden
Chairman
House Subcommittee on Communications and Technology
Washington, DC 20515

Dear Chairman Walden,

Attached please find DIRECTV's written responses to the additional questions for the record posed by the members of the House Energy and Commerce Subcommittee on Communications and Technology regarding the hearing held on June 12, 2013, entitled "The Satellite Television Law: Repeal, Reauthorize, or Revise?"

We appreciate the opportunity to respond to the questions.

Sincerely,

A handwritten signature in black ink, appearing to read "AR", located below the word "Sincerely,".

Attachment

cc: Anna Eshoo, Ranking Member, Subcommittee on Communications and Technology

Additional Questions for the Record

The Honorable Anna Eshoo

- 1. You've testified that the number of blackouts resulting from breakdowns in retransmission consent negotiations is increasing. To what do you attribute this troubling trend?**

The increased number of blackouts is established fact. There were 91 blackouts last year. There were only 12 blackouts in 2010, 51 in 2011. This represents a 78% increase from 2011 to 2012 and a 658% increase in two years.

To give you an example of how this plays out for our subscribers, earlier this year every DIRECTV subscriber in Alaska missed the Oscars, with only two days' notice. Vision Alaska owns every ABC affiliate in Alaska. They took down our signal for three days in early January, but then restored it while we were conducting negotiations. On Friday, February 22, with only a few hours' notice, they demanded for the second time that we shut off their ABCs. This was two days before the Oscars on Sunday, February 24.

This dramatic increase in blackouts stems from the unique economics of retransmission consent. Retransmission consent negotiations do not occur in a real marketplace. The retransmission consent "market" was put in place by the government back when there were two monopolies – cable and broadcasters – negotiating against each other.

Today, broadcasters have kept their monopolies over network content. If you want to get network programming in a particular market, the only place you can go is to the local broadcaster. This no longer holds true, however, on the distribution side. Cable operators today now compete against satellite, telcos, and sometimes overbuilders. This shift in the balance of power has harmed consumers through blackouts and higher prices. So retransmission consent is the only "market" in which more competition has led to higher prices.

The Honorable Henry Waxman

1. What is your perspective on access to sports programming?
2. Are the costs associated with these must-have events affecting the prices you charge your customers?

DIRECTV has long been concerned with access to sports programming, especially regional sports programming. This is why DIRECTV has been one of the most vocal supporters of Congress's "program access" rules over the years. These rules seek to prevent big cable operators that own sports networks from using this must-have programming to harm rivals such as DIRECTV. The FCC has recently moved to weaken these rules, and Congress should monitor the situation closely.

DIRECTV is even more concerned, however, with abuses by broadcasters—who, after all, still control the Super Bowl, the World Series, and other marquee sports events. Problems with broadcasting have become worse than those in other sectors of the video industry in recent years, because only broadcasting is subject to a hodgepodge of outdated laws and regulation.

As we described in our testimony, these rules are in part responsible for the fact that broadcast programming is:

- *Increasingly expensive.*
- *Often unavailable in the place and on the device of the viewer's choosing.*
- *Often "bundled" with programming the viewer doesn't want, in packages the viewer doesn't want.*
- *Increasingly blacked out by the broadcaster.*

To the extent Congress is concerned about the access to and cost of sports programming, it can best address these issues through retransmission consent reform.

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 delays or overtime?**

The limitations are principally technical. DIRECTV, like all other pay-TV providers, receives program information from third-party providers. We use this information to “populate” our programming guide, which in turn governs DVR recordings. Our guide information is updated several times per day. But today’s technology does not allow us to update the guide in real-time. (To the extent changes in live events are captured in the periodic updates, those changes are reflected in subscriber recordings.)

Our DVRs do, however, permit subscribers to adjust recordings, by starting them earlier and ending them up to three hours later. Moreover, since live events such as sports often run late, many of our DVRs automatically ask subscribers if they would like to extend recordings of live events.

- 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?**

We are unaware of systems today with real-time flagging of programs that extend beyond their scheduled duration. For this reason, we cannot assess what changes might be required to DIRECTV’s system to implement such a hypothetical solution, nor the cost of such changes. We would point out, however, that each pay-TV provider employs its own unique system architecture. Thus, solutions that might work for one provider might not work for another.

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

As this is principally a technical issue rather than a legal one, Congress and the FCC would have limited roles in enabling such functionality. As technology advances in the coming years, we expect additional solutions to be developed. At this early stage, however, Congressional or FCC action might inadvertently preclude innovative solutions by mandating particular technologies or functionalities.