

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
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)
Promoting Competition in the American)
Economy: Cable Operator and DBS Provider) MB Docket No. 23-405
Billing Practices)
)
)
)

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ read with interest pay TV industry comments that contend that the industry’s practice of imposing early termination fees (ETFs) and billing cycle fees (BCFs) is actually *beneficial* to subscribers, and that the FCC’s proposal² to prohibit such fees would harm them.³ This may shock some observers, who have come to

¹ NAB is the nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² *Promoting Competition in the American Economy: Cable Operator and DBS Provider Billing Practices*, Notice of Proposed Rulemaking, MB Docket No. 23-405, FCC 23-106 (rel. Dec. 14, 2023) (Notice). Under the proposed rules, cable and DBS providers would be prohibited from imposing “a fee for the early termination of a cable or DBS video service contract” and would be required to “grant subscribers a prorated credit or rebate for the remaining whole days in a monthly or periodic billing cycle after the cancellation of service.” Notice at ¶¶ 7-8.

³ See Comments of NCTA – The Internet & Television Association (NCTA), MB Docket No. 23-405 (Feb. 5, 2024) at 3-9 (discussing how “discounted plans with ETFs are an advantageous choice for some consumers” and how “the Commission’s proposals would adversely impact consumers.”); Comments of DISH Network LLC, MB Docket No. 23-405 (Feb. 5, 2024); Comments of DIRECTV, MB Docket No. 23-405 (Feb. 5, 2024) at 2-11. See *also* Comments of ACA Connects, MB Docket No. 23-405 (Feb. 5, 2024) at 5 (ACA “[m]embers that use such fees do so in a way that is responsive to the preferences of their customers, who are often their family, friends, and neighbors”); Letter from Michael Nilsson, Counsel to the American Television Alliance (ATVA), to Marlene H. Dortch, FCC MB Docket Nos. 18-349, 22-459, 23-

know the pay TV industry as a reliable advocate for the Commission imposing new regulations on behalf of consumers. Indeed, in just the past few years, the pay TV industry has been somewhat of a leading light in seeking more regulation to benefit consumers.⁴

405 (Dec. 6, 2023) (urging the Commission to inquire whether there are consumer benefits to early termination fees).

⁴ Since 2018 alone, NCTA and its pen pal, ATVA, have submitted numerous filings seeking increased regulation or other restrictions on broadcasters. See, e.g., Letter from Mary Beth Murphy, NCTA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349 and 22-459 (Dec. 21, 2023); Letter from Mary Beth Murphy, NCTA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349 and 22-459 (Dec. 6, 2023); Letter from Mary Beth Murphy, NCTA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349 and 22-459 (Nov. 30, 2023); Comments of NCTA in MB Docket No. 22-459 (Mar. 6, 2023); Comments of NCTA in MB Docket No. 18-349 (Sept. 2, 2021); Comments of NCTA in MB Docket No. 18-349 (Apr. 19, 2019) (urging the Commission to retain its 1999 local television ownership rule and to further expand the rule to cover multicast streams and low power television (LPTV) stations); see also Letter from Mary Beth Murphy, NCTA, to Marlene H. Dortch, FCC, MB Docket Nos. 03-185, 16-42, 22-261, 22-459 (Mar. 9, 2023) (opposing a proposal to open a new window for LPTV facilities changes until the Commission acts on NCTA's proposed changes to the local TV ownership rule to include LPTV stations); Letter from Radhika Bhat, NCTA, to Marlene H. Dortch, FCC, MB Docket No. 22-161 (Jun. 22, 2022) (urging FCC to impose conditions on proposed Standard General-TEGNA transaction); Comments of NCTA, MB Docket No. 19-30 (Mar. 18, 2019) (urging FCC to impose conditions on proposed Nexstar-Tribune transaction); Informal Objection of NCTA, File No. 0000214896 (June 20, 2023) (objecting to proposed sale of a single station). See also, Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC MB Docket Nos. 18-349 and 22-459 (Dec. 20, 2023); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC MB Docket Nos. 18-349, 22-459, 23-405 (Dec. 6, 2023); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC MB Docket Nos. 18-349, 22-459 (Nov. 2, 2023); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349, 22-459 (Oct. 18, 2023); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349, 22-459 (Oct. 16, 2023); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349, 22-459 (Oct. 18, 2023); Reply Comments of ATVA, MB Docket Nos. 18-349, 22-459 (Mar. 20, 2023); Comments of ATVA, MB Docket Nos. 18-349, 22-459 (Mar. 3, 2023); Further Reply Comments of ATVA, MB Docket No. 18-349 (Oct. 2, 2021); Further Comments of ATVA, MB Docket No. 18-349 (Sept. 2, 2021); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349, 10-71 (Mar. 18, 2021) (Chairwoman's Office Meeting); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349, 10-71 (Mar. 18, 2021) (Bureau Meeting); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349, 10-71 (Mar. 18, 2021) (Starks Office Meeting); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349, 10-71 (Mar. 18, 2021) (Carr Office Meeting); Letter from Michael

In light of pay TV's consumer-first advocacy, NAB thought it would be helpful to the Commission's consideration of the proposed rule to list all the consumer groups and state and local government filers that agreed with the pay TV industry in initial comments that ETFs are really awesome for consumers and that additional regulation in this area would only harm them. The list is attached hereto as Attachment A.

Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349, 10-71 (Mar. 17, 2021); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349, 10-71, 15-216 (Feb. 5, 2021); Letter from Michael Nilsson, Counsel to ATVA, to Marlene H. Dortch, FCC, MB Docket Nos. 18-349, 19-275 (Nov. 6, 2019); Comments of ATVA, MB Docket No. 18-349 (Apr. 19, 2019) (all urging the Commission to adopt more restrictive local television ownership rules). NCTA has even objected to NAB's proposed reforms to the FCC's regulatory fee assessment methodologies. See, e.g., Comments of NCTA, MD Docket Nos. 22-223 and 22-301 (Nov. 25, 2022); Comments of NCTA, MD Docket No. 21-90 (Nov. 5, 2021). And NCTA and ATVA have attempted to burden and impede the broadcast industry's transition to ATSC 3.0, despite the enhanced services this standard enables TV stations to offer to consumers. See, e.g., Letter from Mary Beth Murphy to Marlene H. Dortch, FCC, GN Docket No. 16-142 (Feb. 23, 2023) (urging the Commission to require that broadcasters make a showing of necessity before being permitted to engage in lateral hosting to continue to provide ATSC 1.0 service during the transition); Comments of NCTA, GN Docket No. 16-142 (Feb. 11, 2022) (urging the Commission to adopt limits on the provision of multicast streams during the transition to Next Gen TV); Petition for Reconsideration of NCTA, GN Docket No. 16-142 (March 5, 2018) (proposing requirements that would: (i) force broadcasters to provide high definition streams on their ATSC 1.0 signals throughout the transition to Next Gen TV, (ii) prohibit broadcasters from negotiating with cable companies to provide for voluntary carriage of ATSC 3.0 signals, and (iii) create new requirements regarding patent licensing by entities not participating in a standards development process or regulated by the Commission); Petition for Reconsideration of ATVA, GN Docket No. 16-142 (March 5, 2018) (urging the commission to: (i) restrict negotiations for carriage of ATSC 3.0 signals, (ii) prohibit low-power and translator stations from flash-cutting to ATSC 3.0, and (iii) require stations to provide advance notice before changing the resolution or picture quality of programming).

Respectfully submitted,

**NATIONAL ASSOCIATION OF
BROADCASTERS**

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A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal flourish extending to the right.

Rick Kaplan
Jerianne Timmerman
Erin Dozier
Emily Gomes

March 5, 2024

Attachment A

**List of Consumer Group and
State and Local Government Comments in
Support of Retaining ETFs and BCFs**

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