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December 20, 2018

***By ECFS***

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

**Re: *Ex Parte* Presentation of American Cable Association, GN Docket No. 18-122**

Dear Ms. Dortch:

The American Cable Association (“ACA”) hereby responds to the C-Band Alliance (“CBA”)’s December 19, 2018 letter, which claims to provide detail on the CBA members’ current plan to build eight satellites to maintain the capacity available today to C-band users if some of the C-band spectrum is reformed for use by fifth-generation (“5G”) terrestrial services.<sup>1</sup> ACA appreciates the satellite operators’ efforts to contribute to the dialogue on this complex issue. Their submission, however, suffers from three main problems and deficiencies.

First, the eight satellites seem insufficient to maintain total capacity *and* choice in order to make up for the large amounts of spectrum that CBA would like to divest—up to 200 MHz of spectrum.<sup>2</sup> As ACA has calculated based on publicly available information, the loss of 200 MHz of C-band spectrum may require many more new satellites than CBA is proposing to build.<sup>3</sup>

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<sup>1</sup> Letter from Jennifer D. Hindin, Counsel for the C-Band Alliance, Wiley Rein LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 18-122, Attachment at 1 (Dec. 19, 2018) (“CBA Dec. 19 Ex Parte”).

<sup>2</sup> *Id.* (“These new satellites will enable Intelsat and SES to operate approximately the same amount of capacity to carry video and other services that they have today in 500 MHz, but using only 300 MHz of spectrum.”).

<sup>3</sup> Reply Comments of the American Cable Association, GN Docket No. 18-122, at 3-4 & Attachment (Dec. 11, 2018) (“ACA Reply Comments”).

There appear to be approximately 24 operational satellites today,<sup>4</sup> which, at 24 transponders per satellite, would translate into 576 transponders. The Kerrisdale Report estimates that about 540 transponders on these 24 satellites are operational today.<sup>5</sup> Based on that information, ACA has estimated that, for a loss of up to 200 MHz, 16 new satellites would be needed to preserve total operational capacity of 576 transponders, and 15 new satellites would be needed to preserve total operational capacity of 540 transponders.<sup>6</sup>

Second, a meaningful and intelligent dialogue presupposes enough information to talk about. CBA is entirely silent on how eight satellites will make up for the loss of 200 MHz of spectrum in its view. Thus, CBA should provide answers to questions such as:

- How many in-orbit C-band satellites does each C-band satellite operator own or operate today? Of these, how many serve as in-orbit spares?
- What is the current orbital slot, year of launch, and expected operational life of each satellite?
- For each satellite, how many C-band transponders are in existence, and what is the operational status and expected operational life of each transponder?
- How many satellites and transponders, either now existing or new, are expected to be operational when the lower C-band spectrum becomes unavailable for satellite use? At what orbital slots? How many, and which, current satellites? How many of the eight new satellites have CBA members committed to launching?
- Of the eight new satellites, how many are being launched by each company, when will each satellite be launched, and what is each satellite's expected operational life?
- How many of the eight new satellites will serve as in-orbit spares? How many will serve as ground spares? Are those numbers consistent with the prudential and redundancy principles each satellite operator has observed in the ordinary course of business?

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<sup>4</sup> See Comments of the American Cable Association, GN Docket No. 17-183, at 6 & Exhibit 3 (Oct. 2, 2017).

<sup>5</sup> See Kerrisdale Capital Management, LLC, *Intelsat S.A. & SES S.A.: To the Moon*, at 31 (June 2018), <https://www.kerrisdalecap.com/wp-content/uploads/2018/06/Intelsat-and-SES.pdf>.

<sup>6</sup> ACA Reply Comments at 4.

- Where do CBA members plan to position the new in-orbit satellites? Will they be deployed at empty slots, and which ones? Will they replace existing satellites, and which ones at what slots?
- With how many transponders will each satellite be equipped, and what will be the expected capacity and operational life of each transponder?
- Will any of the eight satellites be jointly financed or jointly used by more than one satellite operator?
- Is the plan referenced in CBA's December 19, 2018 letter premised on a need to preserve competitive choice? Is there any instance in which video available from more than one operator today would be available from fewer, or only one, under the plan?

Moreover, in a November 19, 2018 letter, Intelsat and SES “separately presented a snapshot of the current loading of cable arc and broadcast arc satellites and explained how that loading could be adjusted and the users repacked to clear the relevant number of transponders in an 18-36 month time period, while still maintaining the high quality of service to existing video distribution customers.”<sup>7</sup> But crucially, no information about the presentations was included in the public record. The users, including the members of ACA, have a direct interest in these plans, and a right to evaluate independently how many new satellites would need to be launched to ensure there is no loss of operational capacity for video backhaul lost as a result of the proposed C-band spectrums clearing. So does the public, including the millions of customers receiving video from distributors who in turn use the C-band to backhaul video to their headends. The supposed need of the satellite operators to keep that information from one another<sup>8</sup> is not enough of an excuse for confidentiality in the face of users’ and the public’s need to know. ACA believes that this information should be released in the public record, or at least made available under an appropriately crafted protective order.

Third, CBA states that “[i]t is critically important to note that the satellite operators would not fund the procurement of these 8 satellites solely for the purpose of maintaining their current businesses - their procurement is necessitated only by the need to clear spectrum for 5G.”<sup>9</sup> If so, this could be a serious problem for the viability of CBA’s plan. In ACA’s view, it is important, or at least useful, for CBA to demonstrate that the eight satellites to be launched by SES and Intelsat are projected to be profitable without charging higher prices than today. In ACA’s view, the prospect of higher prices is unacceptable, and so is the idea that the eight satellites are loss

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<sup>7</sup> Letter from Michele C. Farquhar, Counsel to the C-Band Alliance, Hogan Lovells, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket Nos. 17-183, 18-122, at 2 (Nov. 19, 2018).

<sup>8</sup> *Id.*

<sup>9</sup> CBA Dec. 19 Ex Parte, Attachment at 1.

leaders and the satellite operators are undertaking their construction only in order for the Commission to allow them to reap significant revenue from divesting C-band spectrum. In that latter case, there would be every fear that the satellite operators' interest in the money losing operation of C-band backhaul would be lackluster and that an effort would be made to reduce the hemorrhaging, at users' expense. ACA believes that any plan to build new satellites should preferably make business sense in and of itself. This also means that any such plan is no substitute for the need to compensate users whose interest in the C-band spectrum would be divested, and who have invested even more than satellite operators in order to use that spectrum according to CBA's own expert.<sup>10</sup>

Respectfully submitted,

/s/ \_\_\_\_\_  
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*Counsel for American Cable Association*

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<sup>10</sup> The Brattle Group estimates that the value of the lost satellite assets is about \$7.3 billion, while the "estimated lost economic value of all C-band earth station assets" is higher at \$12.4 billion. See Coleman Bazelon, Maximizing the Value of the C-Band, The Brattle Group, at 22 (Oct. 29, 2018) (attached as Appendix A to Joint Comments of Intel Corp., Intelsat License LLC, and SES Americom, Inc., GN Docket No. 18-122 (Oct. 29, 2018)).