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Subcommittee on Communications, Technology and the Internet
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Chairman Kerry, Ranking Member Ensign, and members of the subcommittee thank you for inviting me to testify before you today on behalf of the Association of Public Television Stations (APTS). The reauthorization of the Satellite Home Viewer Extension and Reauthorization Act (SHVERA), which governs the transmission of local public television signals to millions of direct broadcast satellite (DBS) viewers, is of great importance to the 364 public television stations across the country. It also will bear directly on the future of public broadcasting in the digital era.

There are three principle areas to which we would like to call this committees' attention as you consider the reauthorization of SHVERA: (1) carriage of our stations' local HD signals (2) carriage of public television's multicast offerings, and (3) our statewide broadcasters' inability to serve all DBS subscribers in our states. Although this latter issue is being addressed by the House and Senate Judiciary Committees, we wanted to keep the committee informed on this, and we will seek your endorsement of the solution in the final conferenced bill.

PUBLIC TELEVISION'S PRIVATE CARRIAGE AGREEMENTS

As Congress looks to reauthorize SHVERA, public television proudly highlights the private carriage agreements that we have been able to negotiate with almost all major Multichannel Video Programming Distributors (MVPDs). Rather than rely on Congress to work out these carriage agreements, which are admittedly challenging, we pioneered our own

private agreements with cable, Verizon and DIRECTV that address the carriage of High Definition (HD) signals and the full array of our digital programming and services, including our unique multicast offerings.

In 2005 APTS, PBS, and the National Cable and Telecommunications Association (NCTA) reached a landmark agreement which ensured that the nation's largest cable providers would carry up to four digital streams, including HD and multicast, of each public television station entitled to carriage on a given system. This was the first carriage agreement of its kind and has ensured that cable consumers have access to the complete line-up of their local public television station's digital offerings. In 2006, APTS and PBS reached a similar national agreement with Verizon for carriage of the full digital offerings, including local HD and multicast, of local public television stations on Verizon's fiber-based telecommunications platform, FiOS. Then in 2007, APTS and PBS reached a digital carriage agreement with the American Cable Association (ACA), which represents 900 smaller cable systems that serve more than seven million subscribers in all 50 states. This deal was similar to the earlier deal with NCTA.

Also in 2007, APTS, PBS and DIRECTV reached a landmark agreement which allows DIRECTV's nearly 17 million subscribers to access a broad array of public television's digital services. We realized that our agreements with cable and Verizon were unique to those providers and we worked with DIRECTV on creative solutions that recognized their capacity limitations, ultimately ensuring that subscribers have access to the myriad of content and services provided by the local stations while accommodating their capacity concerns. The agreement stipulates that in each market in which DIRECTV provides high-definition (HD) local channels, they will carry either an HD signal or two standard-definition (SD) streams from each

station, at the station's option. In addition, DIRECTV will carry two national SD feeds featuring educational programming that is differentiated from the station's primary streams, with local stations' identification included on the Electronic Programming Guide. In the future, DIRECTV will provide public television stations the ability to offer additional localized programming through dedicated on-demand services to its new MPEG4 receivers, which are equipped with broadband connections. Finally, in markets where DIRECTV is not yet offering local broadcast signals, DIRECTV will provide stations with marketing materials regarding an offer for an antenna and ATSC tuner so many customers can gain seamless access to local signals over-the-air.

With the tremendous investments that public broadcasting—and by extension the American public—has made in digital programming, it was absolutely necessary to undertake these carriage agreements to ensure that satellite and cable consumers have access to the full array of educational and public service programming that their local stations are providing.

We are also working very closely with Dish Network to come to a similar agreement on the carriage of public television's digital content from multicast programming to HD, because we believe that Dish Network's nearly 14 million subscribers deserve access to their local public television stations. Both sides have worked diligently in recent months to try to come to an agreement and we commend the work that Mr. Dodge and his team have put into these recent negotiations. Ultimately we believe that a private carriage agreement is in the best interest of all parties, including Congress.

We remain hopeful that an agreement with Dish Network will be signed before this committee finishes its work on SHVERA. We must stress, however, that such a national carriage

agreement must respect localism. Public television stations are some of the last locally owned and locally controlled media outlets in this country. We cannot accept any deal with Dish Network that undermines our local ability to serve our viewers. Local broadcasters' rights to serve their local communities with programming and content designed to address local needs go directly to the core of SHVERA itself, and to the work of this committee over the years. We remain committed to a deal with Dish Network that serves our communities with the full complement of local programming and services in which the American public has invested, and as such, we cannot and will not accept anything that undermines our fundamentally local initiatives.

Between Dish and DIRECTV, more than 32 million consumers depend on satellite providers to receive their television signals. We recognize that there are challenging technical and economic factors involved in trying to reach an agreement, but the core principles of localism and access through our HD and multicast services must be addressed. These are issues we have been able to address with every other major MVPD, including DIRECTV. We cannot afford to overlook the importance of ensuring that consumers have nondiscriminatory access to HD programming, regardless of the platform or service provider. If we are unable to come to a private agreement with Dish Network, it will be incumbent upon this committee and Congress to address these critical carriage shortfalls.

DBS CARRIAGE OF HD SIGNALS

While the FCC has created a time schedule for HD roll-out in all satellite markets through 2013, public television has sought to reach private agreements with the DBS providers

that accelerate the roll-out and greatly enhance the educational offerings available to consumers nationwide. This accelerated schedule was a principal portion of our 2007 agreement with DIRECTV and is something we are actively pursuing with Dish Network. There are currently 150 markets where Dish Network is offering HD local service. However, to date, Dish is only carrying the HD signals of local public television stations in Alaska and Hawaii where they are legally obligated to do so. We remain hopeful that this issue can be resolved through a private negotiation so that all consumers will have access to highest-quality programming being created at local public television stations. However, if such private negotiations should fail, it is imperative that this committee address the inadequacies of HD carriage of public television stations as part of the reauthorization of SHVERA.

DBS CARRIAGE OF MULTICAST SERVICES

Public television stations nationwide were early adopters of digital technology and have been at the forefront of developing content and maximizing the new digital capacity to serve our core missions of localism, education and diversity. Local public television stations are utilizing their multicasting capabilities to provide dedicated channels for public affairs programming and programming designed to reach underserved audiences. In a time of declining news coverage, the importance of these services cannot be underestimated.

For example, West Virginia Public Broadcasting (WV PBS) utilizes all three multicast channels to provide a full complement of local educational and public service programming. On their main SD channel and HD channel, they provide the only daily coverage of the State legislative session, available in West Virginia, including the live broadcast of the State of the

State address. Moreover, WV PBS produces and broadcasts weekly programs providing viewers with medical advice, legal advice, and daily science and mathematics help for local students. The historical documentaries produced by WV PBS and local independent producers are legendary and award-winning. Their second SD channel is focused on educational programming and secondary sports. Ultimately they have plans to differentiate their HD and main SD channel. Once that happens, contingent on funding and public support, they are considering dedicating one of the SD channels purely to education and the other to public service and sports programming.

WV PBS is not alone in their innovative embrace of multicast programming. WFSU in Tallahassee partners with the Florida State Legislature to offer the Florida Channel, a public affairs network that is carried by several public television stations in the state. The Florida Channel features live, gavel-to-gavel coverage of the state Senate and House of Representatives, as well as other local electoral and public affairs coverage.

In Arkansas, the Arkansas Educational Television Network (AETN) is broadcasting four multicast channels. In addition to its primary channel, AETN's Scholar Channel, done in partnership with the Arkansas Department of Education, provides 24-hour programming that assists in teacher professional development and enhances the classroom experience. AETN splits another of its multicasting channels between children's programming and programming focused on creative lifestyles. AETN utilizes its last multicast channel to provide a reading service for the blind in partnership with the Arkansas Department of Health and Human Services.

However, SHVERA does not address DBS carriage of local broadcast stations' multicast offerings. Without carriage on all multichannel video platforms, this content is lost to millions of taxpayers who have invested their hard-earned dollars in public broadcasting.

The federal government, which helped fund the conversion of public stations to digital, also has a strong interest in making this content available to the American public. Again, this is an issue that has been addressed by our carriage agreement with DIRECTV. Recognizing satellite providers' legitimate capacity concerns, the deal utilizes creative solutions to ensure that all DIRECTV subscribers have access to local station's multicast content. Multicast carriage is also a central issue being discussed in our negotiations with Dish Network and one that we believe all sides should be able to agree upon. Any agreement with Dish Network would also recognize its capacity limitations, but would ensure its consumers have access to their local stations' multicast programming. Again, we strongly prefer a privately negotiated solution to this issue. However, absent an agreement, this is an issue that should be given serious consideration by this committee as you look to reauthorize SHVERA.

STATEWIDE NETWORKS' ABILITY TO REACH DBS SUBSCRIBERS THROUGHOUT STATE

A central issue I would like to address is the fact that at least 16 statewide public broadcast networks throughout the country are not able to fully serve all viewers in their states. As you know, SHVERA establishes a copyright license that enables DBS providers to retransmit, within a Designated Market Area (DMA), the local stations located in that DMA. In several states, state governments or community foundations operate statewide or regional networks made up of several public television stations. These state or regional public television

networks are charged by their state legislatures to provide statewide services including news and information, public affairs, K-12 services to schools, higher education, workforce services and emergency response information. Statewide public television networks typically receive funding from their states to provide these unique programming services in return for its pledge to serve all citizens of the state. Public television's statewide networks take this mandate very seriously. However, because the SHVERA carriage regime is based on the DMA system, many of these networks cannot be carried by DBS providers in certain portions of their states because they do not have a full-power transmitter in each DMA reaching into the state. This is not acceptable.

For example, West Virginia is divided among 9 DMAs including Charleston-Huntington, Beckley-Bluefield-Oak Hill, and Clarksburg-Weston where WV PBS has three primary full-power transmitters. In addition, West Virginia DMAs include Wheeling-Steubenville and Parkersburg DMAs, both of which contain WV PBS translators. Six more translators are distributed throughout the state to include 2 counties assigned to the Pittsburgh DMA, 7 counties assigned to the Washington, DMA, one county in the Harrisonburg DMA, and finally one county in the Roanoke-Lynchburg DMA.

As a matter of note, West Virginia also includes a major portion of the National Radio Quiet Zone (NRQZ). The NRQZ is 13,000 square miles and affects, more or less, 19 counties in the state. This limits their ability to broadcast into some of the most rural counties in the state and underscores the importance of satellite carriage. Because over the air broadcasts are limited in these areas, satellite carriage is the only way many of these rural communities can receive WV PBS programming.

Because DBS providers lack a statutory copyright license to retransmit West Virginia Public Television in the other 6 DMAs, nearly 35% of West Virginia residents live in places that are not eligible to receive their station. The rest of the state receives either out-of-state public television stations or—in several of the DMAs—no local public television signals at all.

West Virginia is not alone in this issue. This problem affects state or regional public television networks in at least 15 states, from Louisiana to Nebraska and from Arkansas to Oregon, and implicates counties encompassing more than a million households. In Wyoming, the issue is so bad that over 75% of the population resides in DMAs that are ineligible to receive Wyoming Public Television. In many situations, these are rural areas with difficult terrain where DBS is the best option for viewers to receive their local television stations. Additionally, because of the challenges of digital conversion, many small cable systems have since closed down, leaving towns in these areas without cable service. This further highlights the necessity of ensuring that homes in these areas can receive the signal of their local statewide public broadcaster through satellite service.

Again, we recognize that the changes needed in the Copyright Act to address this issue are the jurisdiction of the Judiciary Committees and we are pleased that this non-controversial issue has been addressed in both the House and Senate Judiciary Committee bills. However, we raise this issue today because we are hopeful that this committee will support the Judiciary Committees work to solve this issue for our statewide networks when all four committees come together to conference the final bill.

Thank you for inviting me to participate in today's hearing. The reauthorization of SHVERA is critical to all public television stations. We look forward to continuing to work with

you as you examine SHVERA reauthorization, and other issues of importance to public
broadcasters in the exciting new and challenging media world unfolding before us.