

**Testimony of Jonathon McGee**  
**Executive Director, Ohio Cable Telecommunications Association**  
**Before the**  
**Senate Finance Committee**  
**Re: Sub. House Bill 49**

**June 7, 2017**

**I. INTRODUCTION**

Chairman Oelslager and members of the committee, I am Jonathon McGee, Executive Director of the Ohio Cable Telecommunications Association (OCTA), which represents cable TV operators, programmers and suppliers, and their more than 8,300 full-time employees and over 2 million video customers in Ohio. Thank you for the opportunity to provide testimony about why the General Assembly should oppose any state sales tax on cable TV service as proposed by the administration and contained in the “as-introduced” version of Sub. House Bill 49.

A new state sales tax on cable TV would more than double our customers’ tax burden and disadvantage those who can least afford it. Our customers, your constituents, are being unfairly singled out by the administration’s proposal and would shoulder a disproportionate share of this tax shift. Almost two-thirds of the estimated revenue from the seven new sales taxes proposed by the administration would be paid for by video customers, whether they subscribe to a rural cable company, a telephone video provider, or one of the OCTA’s members. The intent of the budget is not to pick winners and losers but, as proposed, that will be the effect, leaving the more than 2.5 million Ohio cable and video subscribers paying the bill.

Current tax policies in Ohio, crafted after extensive and thoughtful conversations, create a level playing field for competing providers of multi-channel video programming such as cable TV and direct broadcast satellite (DBS) service and provide a tax neutral choice for Ohio citizens. The administration’s proposed new tax regime would upend the competitive balance created earlier by the Ohio General Assembly and put cable at a competitive disadvantage in the highly competitive Ohio video marketplace. Recognizing that Ohio’s current tax policy is fair, the Ohio House of Representatives removed the administration’s onerous tax increase. We encourage the

Ohio Senate to follow suit in recognition that Ohio already fairly taxes video products and to not reinsert the administration's unfair tax proposal back into H.B. 49; nor to make any changes to upend Ohio's current fair and balanced approach to taxing video service. It is worth noting that the Ohio General Assembly has rejected proposals to double tax cable customers in each of the previous two state budgets.

## **II. HOW THE MULTICHANNEL VIDEO INDUSTRY IS TAXED IN OHIO**

### **A. Cable Taxation**

Our opposition to a new state sales tax on cable is grounded in the unique tax and regulatory structure that is already in place in Ohio for our industry. In 2007, the legislature passed Senate Bill 117, requiring wireline video service providers<sup>1</sup> to obtain a state-issued franchise (known as a video service authorization (VSA)) issued by the Ohio Department of Commerce. The Department of Commerce has authority over wireline video service providers, and these providers must comply with many statutory consumer protection provisions.<sup>2</sup> **(See Exhibit 1)**

S.B. 117 also imposed a video service provider fee of up to 5 percent of video service revenue. Despite the move to statewide video service authorizations, the rate of the video service provider (VSP) fee continues to be set by, and remitted to, the local government. Local governmental authorities in Ohio set the VSP fee at a rate up to 5 percent of revenue derived from the provision of video service. Additionally, local governments may elect to include in the calculation of the VSP fee revenue from advertising sales, which can drive the effective rate of the tax above 5 percent. In the sample bill attached, the effective rate is 5.38 percent. **(See Exhibit 2)** This tax is unique to the cable industry.

Cable companies collect the tax from their customers and remit the tax to municipalities and townships. In sum, OCTA members pay approximately \$74 million in VSP fees annually. Additionally, our customers already pay a state sales tax and the local "piggyback" tax on cable equipment rentals, such as set-top boxes, modems and remotes. Our customers also pay a regulatory fee that is remitted to the Federal Communications Commission. **(See also, Exhibit 2)**

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<sup>1</sup> Video service providers include not only traditional cable companies such as Charter Communications, Comcast and Cox, but also telco providers such as AT&T U-Verse, Cincinnati Bell, and a host of small rural service providers.

<sup>2</sup> Ohio Revised Code 1332.26(D)

To impose a new sales tax on service would in effect more than double the cable customer's tax burden.

Specifically, the VSP fee is levied on the amount of the customer's charges from the following:<sup>3</sup>

- (a) Recurring monthly video service charges;
- (b) Event-based charges (*e.g.*, pay-per-view and Video-on-Demand);
- (c) Set-top box rentals and other video service equipment fees;
- (d) Service charges relating to video service (*e.g.*, activation, installation and repair);
- (e) Administrative charges relating to video service (*e.g.*, service order and service termination charges);
- (f) Advertising revenues, if a municipality or a township elects to include them.

**(See Exhibit 3)**

Under the administration's proposal, most of these services would **also** be subject to the state and local sales tax. Taxing the same service twice is not good public policy. Further, the regressive nature of sales taxes disproportionately impacts less fortunate consumers.

In addition to our VSP fee obligations, the cable industry is responsible for many of the same taxes imposed on general businesses. Additional taxes paid by the industry include, but are not limited to, the Municipal Income Tax, Commercial Activity Tax, Real Property Tax and Sales Tax. The total state and local tax burden of OCTA member companies and their customers is well over \$300 million annually, including \$74 million paid annually in local VSP fees.

## **B. DBS Taxation**

Cable's biggest video competitor in Ohio is the direct broadcast satellite industry (DBS).

By way of background, currently there are over 1.1 million DBS customers in Ohio, making the DBS industry the second-largest provider of multi-channel video programming services in the state with 31.3 percent of the market, not 25 percent as

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<sup>3</sup> ORC 1332.32(B)

claimed in recent testimony in the House. This is roughly on par with DBS' national share, according to *SNL Kagan MediaCensus*, which is highly respected in the industry and trusted by trade and business publications alike.

With respect to tax policy, it is certainly true that cable and DBS are taxed differently in Ohio: Cable is taxed at the local level via the VSP fee; satellite service is taxed at the state level through the state sales tax.<sup>4</sup> I'd like to take a few moments to detail for you some background on how this tax structure evolved and how it provides a level playing field for competing providers of multi-channel video programming.

### **C. Federal Preemption**

So how did Ohio arrive at this bifurcated tax structure for competing services? The disparity stems from a 20-year-old law passed by the United States Congress which was meant to shield the then-fledgling DBS providers from the *administrative* burden of filing tax returns with thousands of local governments across the United States. This federal law preempted local governments' ability to impose taxes on DBS providers. (Section 602 of the Telecommunications Act of 1996).<sup>5</sup> However, this same law also made clear that states were free to impose taxes on DBS providers and they could distribute the proceeds of these taxes to local government if they chose to do so. Congress clearly did not intend that DBS customers should pay *less* tax than cable customers. The text and the legislative history of Section 602 make this abundantly clear.

The federal preemption precludes DBS paying either the video service provider fee or the local piggyback tax that cable pays.<sup>6</sup> Another advantage that DBS has over cable as a result of preemption is that it isn't subject to municipal income taxation. Not only does this save them tax dollars, but it also saves them compliance costs. Prior to House Bill 5, our largest member derived less than 5 percent of its revenue from Ohio, but its tax department spent approximately

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<sup>4</sup> The current sales tax was imposed on DBS in 2003. At that time, the General Assembly decided not to impose the sales tax on cable television service, recognizing that doing so would amount to double taxation of cable. The DBS industry challenged this tax structure in court, with the Ohio Supreme Court upholding the law as being constitutional. The United States Supreme Court refused to hear the DBS industry appeal. *DIRECTV v. Levin*, 128 Ohio St. 68, 941 N.E.2d 1187 (2010), *cert. denied*, 133 S. Ct. 51, 183 L. Ed. 2d 675, 80 U.S.L.W. 3707 (2012).

<sup>5</sup> Pub. L. No. 104-104, Title VI, § 602 (reprinted at 47 U.S.C. § 152, note)

<sup>6</sup> Attached as Exhibit 4 is a recent DISH bill. Note that the sales taxes charged do not include the county portion.

20 percent of its time on Ohio municipal tax returns. While H.B. 5 made some improvements to Ohio's municipal tax code, the compliance burden was not significantly lessened as a result.

Today, the two DBS providers, Dish and DirecTV, are Fortune 500 companies with about one-third of the video services market. Despite the fact that the reason for the preemption (sparing fledgling companies a burdensome tax compliance obligation) has long since expired, DBS retains its administrative protection. However, imposing an additional tax on cable service would only serve to further the competitive disparities already in place today. This was not the intent of Congress when Section 602 was enacted.

#### **D. Maintain a Fair Tax Structure on Video Services**

Understanding that the DBS industry had matured and flourished, the Ohio General Assembly in 2003 equalized the tax laws that had historically favored DBS and its subscribers. The General Assembly recognized that the state was already taxing cable through its local subdivisions under the franchise fee (now VSP Tax) and, correctly reading Section 602, determined that the proper taxing jurisdiction for DBS was the state level. This tax structure has served the state well ever since by maintaining a reasonable tax burden on all video services and creating a competitively neutral environment that supports customer choice.

The OCTA opposes any attempt to up-end Ohio's current tax structure, whether by placing the sales tax on cable as proposed by the administration or by removing the sales tax on satellite as pleaded for by DISH in recent testimony in the House. In either case, the tax burdens on cable and DBS customers would cease to be comparable, and an advantage would be given to our largest competitor.

Make no mistake, the video service provider fee on cable service and the state sales tax on DBS are both creatures of the Ohio Revised Code, legislated with the knowledge that sound tax policy provides consumers with tax-neutral choices and taxes functionally equivalent services in a similar manner. We urge this chamber to maintain this tax policy goal.

#### **E. Competitive Landscape**

Competition throughout the video industry continues to grow. Today, consumers are increasingly obtaining video programming through internet-based providers such as Hulu, Netflix, Amazon, SlingTV and a host of other streaming video services (referred to as “over-the-top” or “OTT” video providers). These services are not currently subject to any federal taxes or fees; however, the state now subjects “digital goods” to the sales and use tax. While the imposition of this tax to digital goods amounts to a somewhat comparable tax<sup>7</sup> when compared to what cable customers already bear in the form of the VSP fee, a new sales tax on cable service will reverse whatever parity was achieved with the taxation of digital goods, thereby keeping cable at a competitive disadvantage against these competitors.

Below is an illustration of the tax disparity the sales tax proposed in the introduced version of H.B. 49 would create between cable, DBS and OTT providers.

	<b>Cable TV Services</b>	<b>OTT</b>	<b>DBS Services</b>
<b>Sales Tax</b>	6.25 percent	6.25 percent	6.25 percent
<b>Piggyback Sales Tax</b>	Up to 3 percent	Up to 3 percent	N/A – Prohibited by federal law
<b>Local VSP Tax</b>	Up to 5+ percent	N/A	N/A – Prohibited by federal law
<b>TOTAL</b>	Up to 14.25+ percent	Up to 9.25 percent	6.25 percent

The point here is that most cable customers already pay a 5 percent VSP fee on their cable bill – a tax that neither of our competitors is charged. Imposing another 6.25 percent state tax, plus the piggyback tax, increases most cable customers’ total tax to somewhere between 11 and 14-plus percent. This is just too much. And from a public policy standpoint, the state would be picking winners and losers through tax law.

### **III. REGULATORY DISPARITY**

While you are considering proposed changes to state tax policy and weighing the impact those changes would have on competitive balance, we believe it is important to note the regulatory

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<sup>7</sup> A comparable tax, if it is indeed even collected. Before a vendor must collect the sales tax, nexus to Ohio must exist.

disparity between cable and DBS. Under Ohio law, cable operators are regulated by the Ohio Department of Commerce and support its activities financially through an annual assessment,<sup>8</sup> are subject to consumer protection statutes, and are required to set aside prime channel space for public, educational and government access channels – all of which are not applicable to DBS. At the federal level, DBS operators are treated more leniently than cable in a number of respects.

#### **IV. CHANGES TO THE TAX STRUCTURE WILL SLOW CABLE'S DEPLOYMENT OF ADVANCED SERVICES**

Federal, state and local policymakers have all recognized the importance of broadband technology to our economy. They also know how critical it is to rural Ohio's economy that these areas stay on the cutting edge of information technology.

Ohio cable operators are continually investing private capital to upgrade infrastructure, providing residential and business customers with advanced services. Over just the past three years, more than \$1.5 billion has been invested in Ohio by OCTA members. Many companies have also expanded their competitive offerings to include business and residential telephone services, providing meaningful competition to the local telephone company.

Any tax policy that stifles the cable industry's ability to create and offer new and improved digital services to business and residential consumers is contrary to Ohio's stated policy goal of expanding broadband access.<sup>9</sup>

#### **V. ARGUMENTS WITHOUT GROUNDS**

In recent House testimony, our satellite competitor DISH Network argued that DBS should be relieved of the sales tax burden; they have relied upon the canard that the video service provider fee is somehow "rent" paid to local government for the use of the rights-of-way (ROW).

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<sup>8</sup> We are also concerned with the proposed 7 percent increase in the Video Service Provider (VSP) assessment appropriation that wireline video providers pay to the Department of Commerce annually – another cost to consumers of our products that would increase under H.B. 49 and that is not imposed on DBS and those that provide video services over the internet.

<sup>9</sup> ORC 1332.22

However, the VSP fees are not rent to occupy the ROW; the VSP fees are not based upon the cost to occupy the ROW as is required under Ohio law<sup>10</sup> for municipal ROW charges – instead, VSP fees are based on a percentage of the customers’ bills on items that have nothing to do with the ROW. Rights-of-way fees are required to be maintained in a special fund, but VSP fees go to the general fund to be used for any purpose. Further, if the VSP fee was for the cost of occupying the rights-of-way, then all occupiers would pay this fee, but this tax is unique to cable.

Even the courts have rejected arguments that fees like the VSP fee are “merely rent” for using “public spaces,” holding instead that “franchise fees and related obligations are ... *not rent* payments, *but rather statutorily authorized tax payments.*” *DIRECTV, LLC v. Dep’t. of Revenue*, 2014 WL 7883570 at \*5 (Mass. Feb. 18, 2015) (“*Massachusetts DBS Tax Case*”) (emphasis added).<sup>11</sup>

DBS has also mistakenly characterized cable operators’ franchise agreements, or, in Ohio’s case Video Service Authorizations, as valuable “assets” based upon certain federally-mandated filings. The accounting treatment of the massive investment by cable operators in their plant and equipment must appear on a balance sheet in some form as an asset, but bear in mind the right to provide service under the VSA is non-exclusive, subject to competition from DBS and telephone companies. All in all, accounting treatment should have absolutely no bearing on the propriety of a tax policy.

DBS has also argued that Ohio is somehow an “outlier” in its treatment of taxing these two competitors. But that is simply not the case. At least 12 states, including our neighbor Kentucky, have in some way enacted laws in an attempt to bring parity to the taxation between these video service providers.

DBS’ arguments fail to make a case for upending Ohio’s constitutional tax structure in favor of a tax structure that favors its product over competitors’ products.

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<sup>10</sup> ORC 4939.01(M)

<sup>11</sup> In upholding the DBS excise tax in Massachusetts that did not apply to cable, the Supreme Judicial Court “follow[ed] the other courts that have considered and rejected the satellite companies’ challenges to the laws of other States,” and cited with approval the decision upholding the DBS sales tax here in Ohio. *DIRECTV, LLC v. Dep’t. of Revenue*, 2014 WL 7883570 at \*5, citing *DIRECTV v. Levin*, 128 Ohio St.3d 68, 941 N.E.2d 1187 (2010), *cert. denied*, 133 S. Ct. 51 (2012).

## **VI. CONCLUSION**

For more than 50 years, Ohio's cable industry has continually invested in Ohio – providing employment to Ohioans, becoming an integral part of our communities and constantly upgrading embedded infrastructure to provide video services to our customers, who already pay their fair share in state and local taxes. The taxes paid by our industry in Ohio, and by our customers, have provided billions of dollars in revenue to local governments throughout the state.

Imposing a state sales tax on cable TV would double the tax burden on our customers and penalize our industry, disrupting the competitive balance Ohio's current tax structure provides while benefiting our primary competitors. Eliminating the sales tax on our competitors' product, while maintaining the VSP fee on cable, would also disrupt the competitive balance Ohio's current tax structure provides. This could force customers to downgrade or drop cable service altogether, which will result in declining revenues for cable operators and declining VSP fee collections for municipalities. Hardest hit would be independent cable operators serving our more rural communities. Our industry's continued aggressive deployment of advanced services, and the livelihoods of cable industry workers, would be threatened.

I respectfully urge you to join the Ohio House in opposing a new sales tax on the 2.5 million Ohio cable service customers and preserving Ohio's current fair tax structure. Thank you again for the opportunity to testify before you today. I'd be happy to answer any questions you may have.

**Exhibit 1****1332.26 Political subdivision authority - complaints - standards.**

(A) No political subdivision shall require a video service provider to obtain from it any authority to provide video service within its boundaries.

(B) Except as authorized under division (C) of this section and under sections 1332.30 and 1332.32 of the Revised Code, no political subdivision shall request anything of value from a video service provider for providing video service; impose any fee, license, or gross receipt tax on the provision of video service by such a provider; or impose any franchise or other requirement on the provision of video service by a video service provider, including, but not limited to, any provision regulating rates charged by a video service provider or establishing any build-out requirement or requirement to deploy any facility or equipment.

(C) When requested to do so, a video service provider shall assist a municipal corporation or township in addressing video service subscriber complaints, in a manner consistent with the provider's complaint handling process set forth in its application pursuant to division (A)(7) of section 1332.24 of the Revised Code. Nothing in sections 1332.21 to 1332.34 of the Revised Code affects any authority granted under sections 1345.01 to 1345.13 of the Revised Code.

(D) A video service provider shall meet all of the following customer service standards:

(1) The provider shall restore video service within seventy-two hours after a subscriber reports a service interruption or other problem if the cause was not a natural disaster.

(2) Upon a report by a subscriber of a service interruption and if the interruption is caused by the video service provider and lasts for more than four hours in a given day, the provider shall give the subscriber a credit in the amount of the cost of each such day's video service as would be billed to the subscriber.

(3) Upon a report by a subscriber of a service interruption and if the interruption is not caused by the video service provider and lasts for more than twenty-four consecutive hours, the provider shall give the subscriber, for each hour of service interruption, a credit in the amount of the cost of per hour video service as would be billed to the subscriber.

(4) The provider shall give a subscriber at least thirty days' advance, written notice before removing a channel from the provider's video service, but no such notice is required if the provider must remove the channel because of circumstances beyond its control.

(5) The provider shall give a subscriber at least ten days' advance, written notice of a disconnection of all or part of the subscriber's video service, except if any of the following apply:

(a) Disconnection has been requested by the subscriber .

(b) Disconnection is necessary to prevent theft of video service .

(c) Disconnection is necessary to prevent the use of video service through fraud.

(d) Disconnection is necessary to reduce or prevent signal leakage as described in 47 C.F.R. 76.611.

(6) The provider shall not establish a due date earlier than fourteen days after a video service bill is issued.

(7) The provider shall not disconnect all or part of a subscriber's video service for failure of the subscriber to pay any amount of its video service bill, until the amount is at least fourteen days past due.

(8) The provider shall give a subscriber at least thirty days' advance, written notice before instituting an increase in video service rates.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 2007 SB117 09-24-200.



March 4, 2017

Account:  
Security Code:



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Or, call us at 855-70-SPECTRUM (1-855-707-7328)



**Charge Details**

Previous Balance	4.37
Remaining Balance	\$4.37

Payments received after 03/04/17 will appear on your next bill.

Services from 03/03/17 through 04/02/17

**Spectrum TV™**

Spectrum TV Silver	84.99
Promotional Discount	-25.00
Spectrum Receivers	4.99
	<b>\$64.98</b>

Taxes	State Sales Tax	0.30
Fees & Charges	Franchise Fees	3.82
	FCC Regulatory Fee	0.08
		<b>\$4.20</b>

Spectrum TV™ Total \$69.18

**Other Charges**

Broadcast TV Surcharge	6.05
Other Charges Total	\$6.05

Current Charges	\$75.23
Total Due by 03/28/17	\$79.60

**Messages continued from page 1**

Your TWCTV App is now the Spectrum TV™ App. Download the all-new Spectrum TV App today to continue enjoying TV on your terms—and on more devices than ever before. Watch live TV anywhere in your home, access thousands of On Demand moves and your favorite shows, plus search for titles and more. Visit the app store to download today or [twc.com/tvapp](http://twc.com/tvapp) to learn more.

Local Store: 1015 Olentangy River Rd Columbus OH 43212 Store Hours: Mon thru Fri - 9:00am to 7:00pm; Sat 9:00am to 5:00pm

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- Debit Card - Credit Card - Electronic Funds Transfer
- Receive a quick summary of your account at any time
- Access up to 6 months of statements



**Billing Information**

**Tax and Fees** - This statement reflects the current taxes and fees for your area (including sales, excise, user taxes, etc.). These taxes and fees may change without notice.

**Programming Changes** - For information on any upcoming programming changes, please consult the Legal Notices published in your local newspaper and on [spectrum.net/programmingnotices](http://spectrum.net/programmingnotices).

**Spectrum Receiver** - Charges include: \$3.99 for Receiver Rental and \$1.00 for Secure Connection.

**Past Due Fee / Late Fee Reminder** - A late fee will be assessed for past due charges for service.

**Surcharges** - Spectrum formerly TWC imposes surcharges to recover costs of complying with its governmental obligations.

**Video Closed Captioning Issues** - For closed captioning concerns, call 1-855-707-7328, email [closedcaption@twcable.com](mailto:closedcaption@twcable.com), or fax 1-877-430-1386. Send written complaints via US Mail to W. Wesselman, Legal, 13820 Sunrise Valley Dr., Herndon, VA 20171, email [ccissues@twcable.com](mailto:ccissues@twcable.com), or fax 1-704-697-4935. To follow up on a written submission only, call 1-877-276-7432.

**Authorization to Convert your Check to an Electronic Funds Transfer Debit** - If your check is returned, you expressly authorize your bank account to be electronically debited for the amount of the check plus any applicable fees. The use of a check for payment is your acknowledgment and acceptance of this policy and its terms and conditions.



**Payment Options**

**Pay Online** – Create or Login to MyAccount to pay or view your bill online at [twc.com/account](http://twc.com/account).

**Pay by Mail** - Detach payment coupon and enclose with your check made payable to Time Warner Cable. Please do not include correspondences of any type with payments.

For questions or concerns, please call 1-855-707-7328.



**Exhibit 3****1332.32 Payment of video service provider fees.**

(A) Not sooner than forty-five nor later than sixty days after the end of each calendar quarter, a video service provider shall pay a video service provider fee to each municipal corporation and each township in which it offers video service. The fee shall be calculated quarterly by determining the provider's gross revenue for the preceding calendar quarter as described in division (B) of this section and multiplying the result by the percentage specified in division (C)(1)(a) or (b) of this section.

(B) Gross revenue shall be computed in accordance with generally accepted accounting principles.

(1) Gross revenue shall consist of all of the following revenue for the calendar quarter that is collected by the provider for video service from all its subscribers having service addresses within the municipal corporation or, respectively, the unincorporated area of the township:

(a) Recurring monthly charges for video service;

(b) Event-based charges for video service, including, but not limited to, pay-per-view and video-on-demand charges;

(c) Charges for rental of set top boxes and other video service equipment;

(d) Service charges related to the provision of video service, including, but not limited to, activation, installation, and repair;

(e) Administrative charges related to the provision of video service, including, but not limited to, service order and service termination charges.

(2) Gross revenue shall not include any of the following:

(a) Any taxes, fees, or assessments that are collected by the video service provider from video service subscribers for pass-through to any federal, state, or local government agency, including the video service provider fee authorized under this section, the fee authorized under division (F) of section 1332.30 of the Revised Code, and the federal communication commission user fee;

(b) Uncollectible charges, except that uncollectible charges, all or part of which are written off as bad debt but subsequently collected, less the expenses of their collection shall be included in gross revenue in the quarter collected;

(c) Late payment charges;

(d) Maintenance charges;

(e) Charges for services other than video service, reasonably identifiable on books or records the video service provider keeps in the regular course of business or by other reasonable means, that are aggregated or bundled with amounts billed to video service subscribers, including, but not limited to, any revenue received by a video service provider or its affiliates for telecommunications service, information service, or the provision of directory or internet advertising, including yellow pages, white pages, banner advertising, and electronic publishing;

(f) Reimbursement by programmers of marketing costs actually incurred by the video service provider;

(g) Advertising revenue, unless a municipal corporation enacts an ordinance or a board of township trustees adopts a resolution that uniformly applies to all video service providers. For those purposes, "advertising revenue" means the net revenue received by the video service provider for advertising on its subscription-based video service within a municipal corporation or the unincorporated area of a township. If such revenue is derived under a regional or national compensation contract or arrangement between the video service provider and one or more advertisers or advertising representatives, the amount of revenue derived for a municipal corporation or for the unincorporated area of a township shall be determined by multiplying the total net revenue received by the video service provider under the contract or arrangement by the percentage resulting from dividing the number of subscribers in the municipal corporation or unincorporated area of a township by the total number of regional or national subscribers that potentially receive the advertising under the contract or arrangement. The municipal corporation or township shall promptly notify affected video service providers of the ordinance or resolution, which shall not take effect until the first day of the first calendar quarter that begins more than thirty days after the notice.

(h) Subject to division (B)(2)(g) of this section, any revenue not expressly enumerated in division (B)(1) of this section.

(C)

(1)

(a) If in the calendar quarter a franchise fee is payable by a cable operator under a franchise in effect in a municipal corporation or township as provided under division (B) of section 1332.23 of the Revised Code, the percentage of gross revenue payable in that calendar quarter by a video service provider to the municipal corporation or township shall be the same percentage of gross revenue payable in that calendar quarter pursuant to that franchise, not to exceed five per cent. If there is more than one such franchise of a cable operator in effect in that quarter, the lowest such percentage shall be used.

(b) Otherwise, the percentage shall be zero or such higher percentage, not to exceed five per cent, as is specified in an ordinance or resolution that the municipal corporation or township may enact or adopt for the purpose of this section.

(2) The municipal corporation or township shall provide written notice to the video service provider of the appropriate percentage under division (C)(1)(a) or (b) of this section within ten days after it receives the notice required by division (A) of section 1332.27 of the Revised Code that the video service provider will commence to provide access to video service in the municipal corporation or unincorporated area of the township. A provider need not pay the fee unless the municipal corporation or township provided that notice.

(D) A video service provider that pays a video service provider fee pursuant to this section may identify and collect the amount of that fee as a separate line item on the regular bill of each of its video service subscribers that has a service address within any portion of the municipal corporation or, respectively, within the unincorporated area of the township.

Effective Date: 2007 SB117 09-24-2007 .

3/3/2017

Your DISH bill is now available

From: DISH <Dish@dishemail.com>

To: [REDACTED]

Subject: Your DISH bill is now available

Date: Thu, Mar 2, 2017 8:28 am



Bill Creation Date: 02/28/17  
Account Number: [REDACTED]  
Account Holder: [REDACTED]  
Service Address: [REDACTED]

Manage Your DISH Account

Create an account at [mydish.com](http://mydish.com) to:

[Download a paper bill](#)

[Enroll in eBill or AutoPay](#)

[Pay your bill](#)

[Change your programming](#)

[Order PPV movie and more](#)

To stop receiving a paper bill, [click here](#)

Summary

Previous Bill	\$83.04
Payment(s)	-\$83.04
Previous Bill Minus Payment(s)	\$0.00
TV	\$83.04
Your Card will be charged on 03/15/17	\$83.04

Payment Due	Amount Due
March	\$83.04
15	

TV		
03/13/17-04/12/17	MONTHLY TV	
	AMERICA'S TOP 120	59.99
	LOCAL CHANNELS	10.00
	PROTECTION PLAN	8.00
	OH STATE SURCHARGE	0.26
	FCC REGULATORY FEE	0.03
		\$78.28
02/28/17	TAXES	
02/28/17	STATE/LOCAL TAX (SALES)	4.76
		\$4.76

Your Card will be charged on 03/15/17 \$83.04

TO DOWNLOAD A FULL COPY OF YOUR BILL GO TO [MYDISH.COM/MYBILLHISTORY](http://MYDISH.COM/MYBILLHISTORY). THIS IS AN AUTOMATED MESSAGE FROM DISH; PLEASE DO NOT REPLY TO THIS EMAIL. INSTEAD, PLEASE VISIT [WWW.MYDISH.COM](http://WWW.MYDISH.COM) FOR SUPPORT.





May 23, 2017

The Honorable Kris Jordan  
Chairman, Finance – General Government & Agency Review Subcommittee  
Ohio Senate  
One Capital Square  
Columbus, OH 43215

Dear Chairman Jordan:

On behalf of our combined 2.5 million Ohio customers and over 11,500 Ohio-based employees, we urge you to oppose a plan proposed by the administration that would result in double taxation of wireline TV subscribers, more commonly referred to as cable TV subscribers.<sup>1</sup>

This proposal, which was included in the “as-introduced” version House Bill 49 but correctly removed by the Ohio House, would impose new and higher sales taxes on cable TV subscribers on top of what these customers already pay on their monthly bills.

Cable customers already pay a tax on their TV service at the local level, known under Ohio law as the video service provider fee. Under this state statute, municipalities and townships can unilaterally impose a fee of up to 5 percent on the TV portion of the bill. With other local add-ons, the effective rate of this tax can even exceed 5 percent. Direct Broadcast Satellite (DBS) service (such as DISH and DirecTV) is not subject to this tax, or any local taxes, as this is prohibited by federal law.

The administration’s proposal would impose a new sales tax on cable service that would **more than double the tax burden of cable TV customers**. Adding a state sales tax, which the administration would like to see increased to 6.25 percent, plus any applicable county “piggyback” tax (which could be up to an additional 3 percent, depending on the county), could result in a possible 14.25 percent tax rate on cable TV service.

This plan would upend the level playing field that currently exists under Ohio law with respect to taxation of cable and satellite TV. The following chart illustrates the disparity the new sales tax on cable would create between cable and DBS:

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<sup>1</sup> “Wireline” includes video service by traditional cable companies, such as Charter Communications, Comcast, and MCTV, as well as video service provided by telephone companies such as those signing this letter, and others. For simplicity, herein “cable” includes all wireline video providers.

	<b>Cable TV Services</b>	<b>DBS Services</b>
<b>Sales Tax</b>	6.25 percent	6.25 percent
<b>Piggyback Sales Tax</b>	Up to 3 percent	N/A-Prohibited by federal law
<b>Local VSP Tax</b>	Up to 5+ percent	N/A-Prohibited by federal law
<b>TOTAL</b>	<b>Up to 14.25+ percent</b>	<b>6.25 percent</b>

As you can see, the practical effect of taxing cable TV service twice would be to more than double the tax burden these customers currently carry. It should be noted as well that cable customers would bear the brunt of the proposed new sales taxes proposed by the administration, with approximately two-thirds of the projected revenue coming from cable subscribers.

The Ohio General Assembly has long recognized that taxing cable TV customers at both the local and state level, when satellite service can only be taxed at the state level, would be inequitable. In 2003, when the legislature adopted the state sales tax on DBS service, that action served to level the tax burden between cable and satellite customers.

The Ohio House rejected this proposal to double tax cable service. We respectfully urge this chamber to do the same.

Sincerely,

Mike Sammon, General Manager – North East Ohio  
**Armstrong**

Eric W. Roughton, General Manager  
**Arthur Mutual Telephone Company**

Phil Maag, General Manager  
**Ayersville Telephone Company**

Nate Brickner, Manager  
**Bascom Mutual Telephone Company**

Jeff Abbas, President & General Manager  
**Buckeye Broadband**

Douglas G. Place, General Manager  
**Buckland**

Gary Underwood, Regional VP, Government Affairs,  
Midwest  
**Charter Communications**

Bill McKell, President & CEO  
**Chillicothe Telephone (Horizon)**

Ted Heckmann, Sr. Director, Regulatory &  
Government Affairs  
**Cincinnati Bell Telephone**

James M. D’Innocenzo, VP State Government,  
Legislative & Regulatory Affairs  
**Comcast**

Jay Allbaugh, Senior VP, Northeast  
**Cox Communications**

Thomas Brockman, President  
**Doylestown Telephone Company**

Jimmy Gruttadaurio, General Manager  
**East Cleveland Cable**

Cheryl Bostelman, General Manager  
**Farmers Mutual**

Mike Metzger, General Manager  
**Fort Jennings Telephone Company**

David Hunt, Manager  
**Glandorf Telephone Company, Inc.**

Kevin Flanigan, President  
**GLW Broadband**

Chris Sieberneck, CEO  
**GreatWave Communications (Conneaut Telephone Company)**

Chris J. Phillips, Manager  
**Kalida Telephone Company, Inc.**

Lance Miller, President  
**McClure Telephone Company**

Robert Gessner, President  
**MCTV**

Lonnie Pedersen, COO  
**Middle Point Telephone Company**

Paula McGraw, General Manager  
**Falcon 1 (Minford Telephone Company)**

Jim Edwards, Manager  
**Nelsonville TV Cable Inc.**

Preston Meyer, General Manager  
**NK Telco (New Knoxville Telephone Company)**

Ralph L Potts, General Manager  
**Oberlin Cable Co-Op**

Jonathon McGee, Executive Director  
**Ohio Cable Telecommunications Association**

Kathy E. Hobbs  
**Ohio Rural Broadband Association**

Chris Hardy, Local Manager  
**Orwell Communications (FairPoint Communications)**

Bill Honigford, General Manager  
**OTEC (Ottoville Mutual Telephone Company)**

Chris Hardy, Local Manager  
**Quality One (Columbus Grove Telephone Company– FairPoint Communications)**

David Gobrogge, General Manager  
**RTEC (Ridgeville Telephone Company)**

Rick Rostorfer, General Manager  
**Sherwood Mutual Telephone Association, Inc.**

Peter Brown, Vice President of Operations  
**Suddenlink**

Rick Ekleberry, General Manager  
**Sycamore Telephone Company**

Lonnie D. Pedersen, COO  
**Telephone Service Company**

Paul Fletcher, General Manager  
**Vaughnsville Telephone Company**

Mike Boley, President & CEO  
**Wabash Mutual Telephone Company**

cc: Members of the Senate  
President Obhof  
Minority Leader Yuko  
Jason Mauk  
Ray DiRossi  
Liz Connolly  
Michael Premo