Presented by David Miner

Testimony of Ross Lieberman,
Governmental Relations,
EchoStar Communications Corporation,
Before the North Carolina Revenue Laws Study Committee

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Chairman Kerr, Chairman Luebke, and other distinguished members of this committee, I appreciate the opportunity to address you today on behalf of EchoStar Communications Corporation, one of the two principal providers of satellite television services in North Carolina — and in the interest of the over 900,000 North Carolina television customers that are collectively served by the satellite television industry.

The way consumers receive voice, video, and data is changing. As technologies converge and companies expand their traditional service offerings, the approach to taxing these services must also change. For that reason, EchoStar is concerned that inconsistencies between the manner in which cable television and satellite are taxed create bad, and inequitable, public policy. Currently, the cable industry receives a sales tax credit against the franchise fees they pay to the localities where they do business. There is no reason to compensate cable companies for paying franchise fees. Cable companies pay franchise fees to local governments in exchange for valuable privileges—privileges that satellite television providers like EchoStar do not receive. For example, under the franchise agreements they enter into with local governments, cable companies receive the right to serve the "franchised" cable area, as well as the right to use streets, highways, and other public rights-of-way to lay down their cable networks. In their filings with the federal government, the major cable companies value these privileges in the *billions* of dollars.

Thus, giving cable companies a state tax break worth over $60 million does nothing more than bestow a financial windfall to one kind of company in the television services industry based on of their costs of doing business. We find this grossly inequitable. Satellite providers do not pay local franchise fees, because our service is not dependent upon the use of local rights of way. Instead, in order to obtain comparable operating rights, satellite companies pay substantial amounts to the federal government for use of the airways and satellite orbital positions. As a result, the tax credit for cable creates a competitive disadvantage for satellite providers—in contravention of federal law that encourages competition between cable and satellite, and at the expense of the citizens of North Carolina.

In short, a tax credit for cable means the public suffers, because cable companies do not bear their fair share of state sales taxes. Most directly harmed are the more than 900,000 North Carolina consumers of satellite television service who are forced to pay a tax for their television service that their neighbors who subscribe to cable are not required to pay. Cable customers also suffer by giving cable companies in North Carolina a state-supplied tax cushion protecting them from competition, cable will be able to charge rates above what would be set in a truly competitive market. And the effects do not end there. Because the substantially higher sales tax on satellite television companies acts like a tariff, it is a barrier lasting into the future for North Carolina residents who wish to purchase television service provided by innovative technologies such as satellite.

The cable industry disagrees with our assessment. They would have you believe that their tax credit creates “a level playing field” and achieve “tax parity” between competitive providers of pay television service. The reality is clear though: the cable sales tax credit is a form of market discrimination that places a tax burden on satellite providers, which would result in higher costs for North Carolina’s satellite TV consumers who have made the switch from cable.

My company understands that this issue is complex. We understand that it is politically difficult. We also know though that the status quo cannot stand. A special tax break for one specific component of our industry is little more than an unfair subsidy to a multi-billion dollar industry that harms North Carolina consumers. I appreciate the opportunity to present our perspective, and hope you will not hesitate to address any issues to our representative, David Miner who will speak to the committee about the consideration of a broad television communications tax in place of the sales tax.