

Finance, Revenue and Bonding Committee

**Testimony of DISH Network L.L.C.**

IN OPPOSITION TO:

Raised Senate Bill 451, An Act Concerning State Tax Administration

Chairman Fonfara, Chairman Berger, Ranking member Frantz, Ranking member Davis, members of the committee,

My name is Nicholas Green and I am here today on behalf of DISH Network, one of the nation's two major providers of satellite pay-TV service, to testify in opposition to Sections 2, 3, and 4 of Raised Senate Bill 451, An Act Concerning State Tax Administration.

***S.B. 451 Imposes A New Tax On 175,000 Satellite TV Subscribers***

The aggregate tax burden on satellite pay-TV video in Connecticut today is 11.35%, placing Connecticut in a virtual tie with Florida for the highest pay-TV tax burden in the country.<sup>1</sup> That should give the Committee serious pause before moving any bill that imposes a new tax or expands an existing tax to include more pay-TV products and services.

Yet, that is exactly what S.B. 451 does. It levies a new tax on 175,000 Connecticut families that subscribe to satellite pay-TV. Here's how: today, only video programming products are subject to the gross earnings tax. The current tax does *not* apply to non-video products and services, such as fees for leasing set-top boxes or for installing and maintaining equipment. The proposed bill expands the tax to cover those non-video products and services, and thereby substantially increases subscribers' bills.

If the bill is enacted, the average Connecticut subscriber's total tax burden will be nearly \$10.00 per month. That's an ***approximately 20% increase*** over what they pay in taxes today. While that may not be a lot for wealthy individuals, it really adds up for working Connecticut families.

Connecticut's pay-TV tax burden is too great for any company to absorb without eventually passing the taxes onto its customers, whether directly or in the form of higher prices. It is especially troublesome that this particular tax affects pay-TV service that is not a luxury in the 21st century. It is an essential source of information and cultural engagement—and it is laboring under a tax burden that is already much too high.

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<sup>1</sup> Florida has an aggregate tax rate of 11.44%—less than one-tenth-of-a-percent higher than Connecticut's.

Indeed, the proposed change is unlikely to raise significant revenue, and may well *decrease* governmental revenue by eroding the existing tax base. I am sure you all have heard of the phenomenon of cord cutting—where pay-TV customers are cancelling their cable or satellite subscriptions and watching TV programming over the internet. This bill will only accelerate that trend because satellite pay-TV customers are incredibly price sensitive, and they have more options than ever before for TV programming.

***S.B. 451 Makes Substantive Changes To Existing Law And Is Not A Mere “Clarification”***

You may be surprised to hear us call this a new tax. After all, the bill describes what it does as a mere “clarification” and its change to the satellite TV tax is packaged together with other technical fixes. But it is not a clarification or a technical fix. It is a real and substantial change to current law.

For years, the Department of Revenue Services has adopted an expansive and novel position that the gross earnings tax applies to all products and services offered by satellite pay-TV providers. DRS forced DISH to file suit, and Judge Henry Cohn of the Tax Session of Connecticut Superior Court flatly rejected DRS’s interpretation. The Court held, “the statute plainly states that the tax on gross earnings applies to those earnings ‘from’ the transmission of video programming”—and plainly does not apply to earnings from non-programming products and services. Having lost in court, DRS is now litigating through legislation and is trying to change the law retroactively to affect “all open tax periods.”

Going the route DRS proposes is not only bad for consumers, it will send an unmistakable message to businesses that they cannot always count on getting a “fair shake” when it comes to tax administration and litigation in Connecticut. This bill says that even if you’re right on the law, and the court so orders, there’s a real possibility the legislature will change the law retroactively. Even in a time of fiscal need, the relatively small amount of tax revenue at stake does not justify either the burden on consumers or the message this bill will send to the business community.

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For these reasons, we urge you to oppose the amendment to the satellite pay-TV gross earnings tax in Sections 2, 3, and 4 of S.B. 451. Thank you for the opportunity to speak with you today on this important issue.