Layer3 TV, Inc.
1660 Wynkoop Street
Suite 800
Denver, Colorado 80202

November 10, 2015

VIA ECFS

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


Dear Madam Secretary:

On Friday, November 6, 2015, Lindsay Gardner, Chief Content Officer, and the undersigned, along with John Hane of Pillsbury Winthrop Shaw Pittman, all on behalf of Layer3 TV, Inc. (“Layer3 TV”), met with Gigi Sohn, Counselor to the Chairman, Rebecca Weinstein and Vernon Ross, interns in the Chairman’s Office, Eric Feigenbaum of the Office of Media Relations, and Michelle Carey of the Media Bureau. We met separately with Commissioner Jessica Rosenworcel and Valery Galasso, the Commissioner’s Policy Advisor.

In these meetings, we reviewed that Layer3 TV is a new, facilities-based multichannel video programming distributor (“MVPD”) with a defined footprint. Layer3 TV is dedicated to innovating within the “traditional” MVPD ecosystem. We confirmed that Layer3 TV’s systems, as they have been designed and built,
meet the definition of MVPD as it has historically been defined by Congress\(^1\) and interpreted by the FCC,\(^2\) including in the recent Notice of Proposed Rulemaking ("NPRM").\(^3\)

Layer3 TV reaffirmed that, based on the questions posed by the NPRM, it does not anticipate that any resolution of the proceeding to change Layer3 TV’s regulatory status because Layer3 TV does not deliver video programming provided by its programming partners via the Internet, as compared to online video distributors ("OVDs") (i.e., distributors that offer video content over the Internet). Layer3 TV’s services will only be accessible its subscriber’s premises, excluding any complementary TV Everywhere services.

Nonetheless, Layer3 TV advocated for an expeditious resolution of the NPRM, including, but not limited to, a partial resolution or incremental approach; it acknowledged the complexity and challenge faced by the Commission if such resolution involves addressing the NPRM in its entirety. Layer3 TV explained that it has recently observed that the Commission’s mere consideration of revising the definition of MVPD has created some confusion with otherwise collaborative programming partners.

We emphasized that Layer3 TV has encountered occasional questions (which in each case has been resolved through significant efforts) about its MVPD status because of its innovative approach to the traditional cable model; such questions having surfaced despite the fact that distribution of programmers’ content over our distribution systems are not available over the Internet. We emphasized that we are indeed an innovative new entrant, and that our approach to the cable model meets any and all current and proposed reclassification or redefinition of MVPD being considered by the Commission, but that an incremental approach to the NPRM, possibly a middle ground, would be in the best interest of other new entrants that follow in Layer3 TV’s footsteps.

\(^1\) See 47 U.S.C. § 522(13).
\(^2\) See 47 C.F.R. § 76.1000(e).
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This letter is filed pursuant to section 1.1206 of the Commission’s rules pertaining to disclosure of *ex parte* communications with Commission officials.

Respectfully submitted,

/\s/ Lauren Wallace
Lauren Wallace
Company Counsel
Layer3 TV, Inc.

cc: Commissioner Jessica Rosenworcel
    Gigi Sohn
    Valery Galasso
    Eric Feigenbaum
    Michelle Carey
    Rebecca Weinstein
    Vernon Ross
    Lindsay Gardner
    John Hane