Testimony of Lisa V. McCabe
Director, Public Policy and Outreach
Satellite Broadcasting & Communications Association

Before the New York State Senate Finance and Assembly Ways and Means Joint Legislative Budget Committee on Taxes in the proposed 2009-2010 Executive Budget

February 3, 2009

Chairman Kruger and Chairman Farrell and members of the Committee, thank you for the opportunity to testify before the Joint Committee. I am Lisa McCabe, Director of Public Policy and Outreach for the Satellite Broadcasting & Communications Association of America ("SBCA").

The SBCA is the national trade organization representing all segments of the satellite industry. It is committed to expanding the utilization of satellite technology for the broadcast delivery of video, audio, data, music, voice, interactive and broadband services. SBCA is composed of satellite service providers, content providers, equipment manufacturers, distributors, retailers, encryption vendors, and national and regional distribution companies that make up the satellite services industry. The satellite industry has over 1 million subscribers in New York and employs thousands of people in the state**.**

I am here to urge you to reject the executive budget proposal to impose a tax on satellite and cable services. While we recognize the difficult decisions that have to be made in these challenging budget times, the industry believes the proposal would unfairly hurt upwards of 6.5 million consumers in New York.

I. The Proposed Tax will Hurt New Yorkers

TV is our primary source of information on everything from local news and weather to national politics. We click it on first thing in the morning to learn if a storm is brewing, if our schools are closing, and if we have to take an alternative route to work. Throughout the day, it tells us if our Medicare payments will be cut, if our streets are safe, and how our troops are faring in far-away wars. At night, we turn to TV to entertain us, or relax us, to teach us and inspire us, to keep us awake or to lull us to sleep.

When times are tough and wallets are thin, TV is the entertainment of last resort for thousands of New Yorkers. We can cut out restaurants, we can rule out plays, movies, lectures, and sporting events as luxuries. And when we do, we stay at home and click on the TV. The tax - $80 a year for most subscribers - puts average New Yorkers to an untenable choice between a tax they cannot afford to pay and service they cannot afford to lose.

This tax affects the hundreds of thousands of New Yorkers living in rural parts of the State who have few options for service. This tax hits senior citizens on fixed incomes extremely hard. This tax hurts tens of thousands of hotel, bar and restaurant owners in New York who need satellite TV just to stay in business.

For thousands of families in New York who subscribe to various foreign language programming packages, satellite TV service is the only way for many of them to get news, weather, or entertainment in a language they understand.

To make matters worse, as of February 17 (or maybe, June 12), several million New Yorkers who do rely on broadcast TV, will get no signal at all. That is the day that the federal government has mandated that all broadcasters switch to digital signals, which older TV sets cannot read. The federal government promised to pay for digital converter boxes for those who cannot afford them. But that program is out of money. So all of these New Yorkers will have just three options: buy a new TV, buy a converter box, or buy a TV subscription. If you are on a fixed income, buying a new appliance is out of the question. So the choice is: buy a TV subscription or watch static.

II. The Proposed Tax on Satellite TV Service is Discriminatory and is Contrary to Federal Policy

The proposal could tax satellite TV customers at a higher rate than cable customers. The higher state tax is designed to adjust for the effects of a federal law that prohibits local governments from imposing taxes on satellite TV. Congress adopted that ban, in the face of public outcry against a cable monopoly, to enable the satellite TV industry to compete more effectively. The proposed tax on satellite services violates this prohibition by leaving it to the various local governments to decide the tax rate that satellite subscribers will ultimately pay.

The contingency in the tax proposal regarding the legality of the satellite tax itself provides a back-up plan that would impose an 8.75% tax on all satellite TV subscribers in the state. This rate is higher than the aggregate amount in state and local taxes that would be paid in all but 2 counties in the state for other video programming. Ohio imposed a discriminatory tax and a court held that it violated the constitutional prohibition against discriminating against interstate commerce—subjecting the state to an order that will require it to refund $200 million in illegally collected taxes. It is bad policy to punish consumers with higher taxes for choosing one TV service over another.

Maintaining competition is the best way to provide positive influence in the marketplace. Tax policy that sets a level playing field is the best way to foster competition in New York’s video services marketplace. If the state must tax video service, the tax should be fair and should tax all services equally.

I ask you all for your support in rejecting the proposed tax on cable and satellite TV customers. It’s the wrong tax at the wrong time and would unfairly hurt 6.5 million New Yorkers. Thank you for your time and attention. I will be happy to answer any questions.