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May 16, 2008

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

VIA ECFS

**Re: American Cable Association (“ACA”); Notice of Ex Parte Presentation; MB
Docket No. 07-198**

Dear Ms. Dortch:

Under 47 C.F.R. § 1.1206(b), we electronically provide this notice of an ex parte written presentation in the docket listed above.

We attach a letter delivered today to Chairman Kevin Martin from Matthew Polka, ACA President and CEO. The letter describes how Lifetime Entertainment Services, the programmer owned by Hearst and The Walt Disney Company, summarily pulled the Lifetime Channel from CableCom of Willsboro, an ACA member and small cable company. The sole reason that Lifetime pulled the channel was because CableCom declined to sign Lifetime’s “take it or leave it” contract, which would have required CableCom to move Lifetime Movie Network from a digital tier to analog basic. As explained in the letter and attachments, this would have required CableCom to drop other channels or divert bandwidth from high speed internet service.

The letter details yet another example of how the current wholesale practices of large programmers and broadcasters reduce choices, raise costs, and impede broadband deployment, especially in the markets served by small and medium-sized cable companies.

Sincerely,

Christopher C. Cinnamon
Heidi I. Schmid
Attorneys for the American Cable Association

cc: Matthew M. Polka
Ross J. Lieberman

Enclosure



Independent Companies. One Voice.

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Matthew M. Polka, President
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E-Mail: mpolka@americancable.org
Website: www.americancable.org

May 16, 2008

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

via email

Re: Summary withdrawal of the Lifetime Channel from a small cable company that would not immediately move the Lifetime Movie Network to the basic tier

Dear Chairman Martin:

I write to provide you and the Commission additional evidence of large programmers' ongoing abuse of market power against small cable operators in wholesale programming transactions. This evidence of "take it or leave it" tying arrangements and withdrawal of programming is directly on point for the ongoing Program Access Rulemaking, MB Docket No. 07-198, and we will be submitting this letter in that docket as well.

This Monday, May 12th, Lifetime Entertainment Services, the programmer owned by media conglomerates The Hearst Corporation and The Walt Disney Company, summarily pulled the popular Lifetime Channel from all basic subscribers of small cable operator CableCom of Willsboro. CableCom is operated by Mr. Herb Longware and serves less than 1,000 customers in rural New York. Herb and his parents built the system, and it has delivered cable service to its small subscriber base for more than two decades. The system also delivers digital cable and high speed cable modem service. The system was among the first in the area to offer broadband internet access.

Lifetime pulled its signal from CableCom for one reason – CableCom declined to sign a contract that would obligate it to move Lifetime Movie Network from CableCom's digital tier to analog basic, requiring all subscribers to pay additional programming fees for the channel. Lifetime delivered its "take or leave it" contract along with the threat to pull the Lifetime Channel in a letter

dated April 8, 2008 (Exhibit 1). Four and a half weeks later, Lifetime terminated the signal, impacting all of CableCom's customers.

By letter dated April 28, 2008 (Exhibit 2), Mr. Longware explained the situation to the Commission. You will note from his letter that carriage of Lifetime Movie Network on analog basic would require him to drop other channels or divert bandwidth from cable modem service.

The summary withdrawal of Lifetime from CableCom and its customers shows yet another example of abuse of market power by a media conglomerate-controlled programmer, and complete disregard of the interests of rural cable operators and consumers. Moreover, Lifetime's demand for distribution of additional channels by CableCom further demonstrates how tying and bundling undercuts broadband deployment.

On the record in the program access proceeding, the media conglomerates claim they offer small cable operators "a menu of flexible options" and never engage in "take it or leave it" bargaining. We reiterate here what we demonstrate in detail on the record: For small cable operators, wholesale programming and retransmission consent transactions are rife with "take it or leave it" tying and bundling arrangements and price discrimination. To deal with concerns about cable costs and lack of choice, policymakers need to address wholesale practices. Therein lay the problems.

We encourage you and your colleagues to continue your scrutiny of wholesale programming and retransmission consent practices and to consider the rule changes suggested by ACA and others.

Sincerely,



Matthew M. Polka
President and CEO
American Cable Association

Enclosures

cc: Commissioner Michael J. Copps
Commissioner Deborah Taylor Tate
Commissioner Jonathan S. Adelstein
Commissioner Robert McDowell

Exhibit 1

VIA OVERNIGHT MAIL

Lifetime

April 8, 2008

Herb Longware
Cable Communications of Willsboro
9 Lakeshore Road, PO Box 325
Willsboro, NY 12996

Dear Mr. Longware:

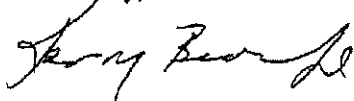
Cable Communications of Willsboro ("Willsboro") is carrying and distributing the Lifetime Television programming service (the "Service") without having a fully executed agreement with Lifetime Entertainment Services ("LES") authorizing such distribution.

In order to continue, without interruption, distributing the Service to its subscribers, Willsboro must promptly execute an affiliation agreement with LES. Enclosed you will find two execution copies of our affiliation agreement for your review and signature. This letter shall serve as notice that, in the event that an executed agreement is not in place by April 30, 2008, then Willsboro must cease distribution of the Service to subscribers as of May 1, 2008.

Please promptly review, sign and return the enclosed agreements to the attention of your LES sales representative, Sandra Ford, at 4709 State Highway 121, Suite 132-415, The Colony, Texas 75056-2903. If you have any questions, please contact Sandra Ford, at (469) 384-9000.

This letter is written without prejudice to any rights, remedies, or defenses to which LES may be entitled, all of which are expressly reserved. For the avoidance of doubt, any continuation of transmission of the signal of the Service to Willsboro shall not be deemed as a waiver of LES' right to discontinue such transmission or otherwise to limit any of LES' rights or remedies.

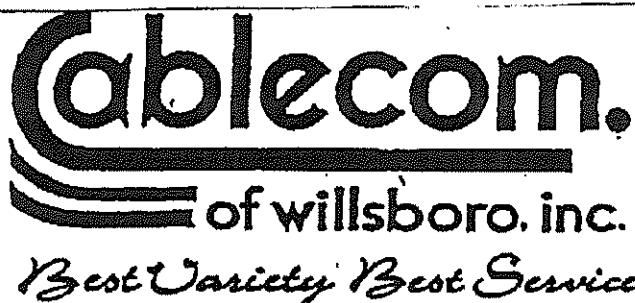
Sincerely,



Kerry Brockhage
Vice President, Distribution--Legal

cc: Kerry Brockhage
Sandra Ford

Exhibit 2



3669 Essex Road, Suite
P O BOX 625
Willsboro NY 12996
518-963-4116

28 April 2008

The Honorable Kevin Martin
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
Via Fax 866-418-0232 and USPS

Dear Chairman Martin,

In early April, I was in Washington DC attending the American Cable Association Summit. Thank you for taking the time out of your busy schedule to address our group.

My Mom and Dad and I started Cable Communications of Willsboro more than 20 years ago to provide service to Willsboro and Essex both located in rural Essex County, NY. Since that time, we have provided a range of services including Cable TV and High Speed Internet. We are proud of the services that we have been able to offer to the residents, businesses, school and health care center in our community.

Upon my return to Willsboro from Washington, I had the enclosed letter waiting in my office from Hearst-Argyle, the owner of Lifetime Television and the NBC affiliate for our area WPTZ. The letter stated that our Lifetime service will be turned off as of May 1st if we do not return a signed contract, requiring us to carry Lifetime Television and Lifetime Movie Networks on our expanded basic level of service.. Our contract has expired but we are carrying the service with the full knowledge of Hearst-Argyle and all subscriber fees are up to date. Our cable system is very small and has limited channel capacity to carry more channels. If Hearst-Argyle forces us to carry both Lifetime Television and Lifetime Movie Networks it will mean that other current programming services our customers now watch will have to be dropped, or we will have to take bandwidth away from our high-speed Internet service to accommodate the Lifetime programming services. This is not a consumer-friendly action that would be brought upon us by Hearst-Argyle


This letter and the statement in it that the Lifetime service will be turned off in less than two weeks clearly illustrates the market power of Hearst-Argyle. Small cable systems and their subscribers are unfairly singled out for higher and higher fee's, onerous tying and bundling arrangements, stipulations on carriage on the basic cable tier and the "take it or leave it" attitude of the media conglomerates, knowing that we have absolutely no bargaining power. With retransmission negotiations just around the corner let me make it clear that small cable operators and their customers will take the full brunt of this discriminatory practice perpetrated by the media conglomerates including Hearst-Argyle.

If Hearst-Argyle shuts off Lifetime Television service to our customers on May 1, our customers will no longer be able to receive this service from our locally owned-and-operated company, putting our company, our employees, and the other advanced services we provide, like high-speed Internet, at risk.

I have sent a letter to David Barrett, President and CEO of Hearst-Argyle in hope that this immediate matter of carriage of Lifetime Television can be resolved prior to the May 1 or the Lifetime Television will not be removed during our negotiations for a new contract.

I am asking for your help for fair treatment of small cable operators in dealing with large media conglomerates in programming and retransmission issues. I urge you to persist in our efforts through FCC's current rulemaking on retransmission consent and cable programming tying practices to address this issue and provide more programming choices to customers like mine in rural New York.

Sincerely,



Herb Longware

President, Cable Communications of Willsboro, Inc.

HL/
Enclosure

cc: ✓ The Honorable Michael J. Copps
✓ The Honorable Jonathan S. Adelstein
✓ The Honorable Deborah Taylor Tate
✓ The Honorable Robert M. McDowell
✓ Monica DeSai, Chief, FCC Media Bureau
✓ David Barrett, Hearst-Argyle Company