



A Professional Limited Liability Company

307 North Michigan Avenue, Suite 1020
Chicago, Illinois 60601
Telephone: 312-372-3930
Facsimile: 312-372-3939

Washington, DC Office
1629 K Street NW, Suite 300
Washington, DC 20006

Jeremy M. Kissel
Admitted in Illinois, Florida and District of Columbia

December 8, 2009

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; GN
Docket Nos. 09-47, 09-51, 09-137**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission’s rules, we are electronically filing this letter in the dockets referenced above as notice of a December 7, 2009, meeting with Blair Levin, Thomas Koutsky, Rebekah Goodheart, Albert Lewis, and Elvis Stumbers of the Commission’s Broadband Team, and the following persons:

Steve Friedman, Chairman, ACA; Chief Operating Officer, Wave Broadband
James Bruder, Vice Chairman, ACA; Chief Executive Officer, MetroCast Communications
Matthew M. Polka, President and Chief Executive Officer, ACA
Ross J. Lieberman, Vice President of Government Affairs, ACA
Jeremy M. Kissel, Cinnamon Mueller, Outside Counsel for ACA

During the meeting, participants discussed the following matters contained in the association’s filing in the National Broadband Plan for Our Future Inquiry concerning Broadband Adoption.¹

ACA explained that all-or-nothing online distribution models that require broadband service providers to pay a per-subscriber fee on behalf of all of their broadband subscribers in order to permit any one of their high-speed Internet customers to obtain access to the content or services of the distributor (e.g., ESPN360), increases the cost of basic broadband access for all customers, and, correspondingly, decreases the rate upon which broadband is adopted, particularly among low income households where cost is a factor. ACA representatives also stressed that broadband service providers should not be impeded from offering flexible-pricing models such as consumption-based billing plans. A prohibition on this type of retail pricing would limit the flexibility of broadband service providers to offer lower cost options for price-sensitive consumers who only intend to use the Internet for low-bandwidth applications and services, such as email.

¹ See *Comment Sought on Broadband Adoption*, GN Docket Nos. 09-47, 09-51, 09-137, NBP Public Notice #16, DA 09-2403 (rel. Nov. 10, 2009), Comments of the American Cable Association (filed Dec. 2, 2009).

Participants also discussed the Commission's recent inquiry seeking data on the use of spectrum currently licensed to broadcast television stations,² and the need for the agency to fully consider the impact of diminishing or terminating over-the-air digital television service on small cable operators who currently rely on over-the-air broadcast service to retransmit local broadcast signals to their customers. Without access to over-the-air broadcast signals, many small cable operators with scarce resources would incur additional costs to obtain the broadcast signals that are required to be carried through contract or law through alternative means (e.g., fiber, satellite, microwave, etc.). In order to ensure that these costs are not needed to be passed along to consumers, and small cable operators' competitors who today do not rely on over-the-air technology to provide their customers with broadcast signals are not unfairly benefited as a result of a change in policy, the Commission must ensure that a sufficient portion of any revenue generated from a reclamation of broadcast spectrum is set aside to help small operators through such a transition.

Sincerely,



Jeremy M. Kissel

cc: Blair Levin (*via email*)
Thomas Koutsky (*via email*)
Rebekah Goodheart (*via email*)
Albert Lewis (*via email*)
Elvis Stumbergs (*via email*)
Steve Friedman
James Bruder
Matthew Polka
Ross Lieberman

² See *Data Sought On Uses of Spectrum*, GN Docket Nos. 09-47, 09-51, 09-137, NBP Public Notice #26, DA 09-2518 (rel. Dec. 2, 2009), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-2518A1.pdf.