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Jeremy M. Kissel
Admitted in DC and Florida

December 8, 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 Nos. 07-42 and 07-198**

Dear Ms. Dortch:

Pursuant to 47 C.F.R. § 1.1206(b), we electronically provide this notice of an ex parte presentation in the dockets listed above. On December 5, 2008, the following persons spoke via telephone with Amy Blankenship, FCC Commissioner Deborah Taylor Tate's Legal Advisor:

Matthew M. Polka, ACA, President and CEO
Ross J. Lieberman, ACA, Vice President of Government Affairs
Jeremy M. Kissel, Cinnamon Mueller, Outside Counsel to ACA

In the meeting, participants expressed ACA's serious concern with the Report and Order modifying the program carriage rules and procedures that were listed as part of the tentative agenda for the next open meeting scheduled for Thursday, December 18, 2008. ACA relayed its strong objection to any changes to the program carriage rules and procedures that would subject operators who have no attributable interest in programming (*i.e.*, non-vertically integrated operators)—especially those who are small and medium-sized—to complaints filed by unaffiliated video programming vendors (*i.e.*, independent programmers) based on not agreeing to similar prices, terms, or conditions for carriage as those agreed to any other programmer. As explained by ACA, non-vertically integrated operators do not have any incentive to engage in conduct that would unreasonably restrain independent programmers' ability to compete fairly that would warrant modifying existing rules to permit unaffiliated video programmers to file discrimination complaints against them.

Participants also urged support for the Further Notice of Proposed Rulemaking ("FNPRM") that seeks comment on the practices of programmers and broadcasters that was also part of the tentative agenda. ACA believes that the FNPRM continues a meaningful dialogue at the

Commission on the problems in the wholesale programming market that deny consumers a wide variety of tiers, better value, and more independent programming.

Sincerely,



Jeremy M. Kissel

cc: Amy Blankenship (*via email: Amy.Blankenship@fcc.gov*)
Matthew M. Polka
Ross J. Lieberman