



A Professional Limited Liability Company
2156 Wisconsin Avenue NW
Washington DC 20007
Telephone: (202) 609-7793
Facsimile: (202) 747-5870

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

Jeremy M. Kissel
Admitted in DC and Florida

December 10, 2008

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

VIA ECFS

RE: American Cable Association ("ACA"), National Telecommunications Cooperative Association ("NTCA"), Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"), Western Telecommunications Alliance ("WTA"); 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 9, 2008, the following persons met with Rick Chessen, FCC Commissioner Michael Copps' Legal Advisor:

Jill Canfield, NTCA, Senior Regulatory Counsel
Christopher C. Cinnamon, Cinnamon Mueller, Outside Counsel to ACA
Eric Keber, WTA, Government Affairs Manager
Jeremy M. Kissel, Cinnamon Mueller, Outside Counsel to ACA
Ross J. Lieberman, ACA, Vice President of Government Affairs
Stephen Pastorkovich, OPASTCO, Director of Business Development/Senior Policy Analyst
Matthew M. Polka, ACA, President and CEO
Tom Wacker, NTCA, Vice President of Government Affairs

During the meeting, participants expressed their organizations' 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 scheduled open meeting. The groups strongly object to any changes to the program carriage rules and procedures that would subject small and medium-sized operators who either have no attributable interest in a programmer (*i.e.*, non-vertically integrated), or an attributable interest in only a local or regional programmer, 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 for programming owned by another MVPD. The organizations also oppose any revisions to the rules that would

give independent programmers grounds to file complaints for failing to negotiate in good faith against small and medium-sized operators who are either non-vertically integrated or have an attributed interest in only a local or regional programmer. Operators who are non-vertically integrated, and those who have an attributable interest in only local or regional programming, do not have any incentive to engage in conduct that would unreasonably restrain independent programmers' ability to compete that would warrant changing existing rules to permit unaffiliated video programmers to file discrimination or good faith complaints against them.

On behalf of their organizations, 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. The groups believe 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.

Participants noted that the Rural Independent Competitive Alliance (RICA), who were unable to provide a representative at the meeting, also share all the views expressed above.

Sincerely,



Jeremy M. Kissel

cc: Rick Chessen (*via email: Rick.Chessen@fcc.gov*)
Jill Canfield
Christopher C. Cinnamon
Eric Keber
Ross J. Lieberman
Stephen Pastorkovich
Matthew M. Polka
Tom Wacker
Steve Kraskin