



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

September 17, 2008

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

VIA ECFS

RE: 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 September 16, 2008, the following persons met with FCC Commissioner Deborah Taylor Tate and her Legal Advisor, Amy Blankenship:

Randy Brown, SVP, Affiliate Sales and Marketing, Outdoor Channel
Gary Evans, CEO, Hiawatha Broadband
John Goodman, Executive Director, Broadband Service Providers Association (BSPA).
Dan Isett, Director of Public Policy, Parents Television Council
Eric Keber, Government Affairs Manager, Western Telecommunications Alliance
Jeremy M. Kissel, Cinnamon Mueller, Counsel for ACA
Ross J. Lieberman, Vice President of Government Affairs, ACA
Steve Pastorkovich, Business Development Director/Senior Policy Analyst, OPASTCO
Thomas Steel, Vice President of Regulatory Affairs, RCN
David S. Turetsky, Dewey & LeBoeuf, Counsel for HDNet

At the meeting, participants expressed their support for Commission action in the wholesale programming market rulemaking to address the various harms that result from the market abuses of programmers and broadcasters in their negotiations with multichannel video programming distributors (MVPDs), such as wholesale bundling. Independent programmers described how obligations on MVPDs to carry numerous undesired networks in exchange for the right to carry desired networks restrict the ability of independent programmers to gain and maintain carriage on capacity constrained systems. MVPDs, including small and competitive telecommunications operators, explained how wholesale programming practices raise their costs, harm their ability to compete, and erode resources available for the substantial capital and operating costs necessary to deploy broadband in their areas.

In order to address the numerous problems with the existing wholesale programming market, meeting participants were supportive of the American Cable Associations' proposal, as presented in their January 3, 2008 comments filed in MB Docket No. 07-198. It was explained that the Commission has the legal authority to implement the ACA recommendations. A handout detailing programmer affiliations was also handed out, and a copy of same has been attached to this ex parte.

Finally, during the meeting, the participants discussed the need for and encouraged adoption of Section 616 carriage complaint reform, and were supportive of the proposals previously presented by NAIN and others, as reflected in a June 5, 2008 ex parte filing in MB Docket No. 07-42. As explained, those proposals include a discussion on the need for reforms to the Commission's program carriage rules, including the institution of a "shot clock" for the adjudication of program carriage access complaints, the necessity of a clearer definition in the regulations of the prima facie case standard, the introduction of an anti-retaliation clause, and a "stay" preserving the status quo before the allegedly discriminatory retiering or other violation, until the complaint is decided (or dismissed for not stating a prima facie case).

Sincerely,



Jeremy M. Kissel

Enclosure

cc: Commissioner Deborah Taylor Tate
Amy Blankenship
Randy Brown
John Goodman
Dan Isett
Eric Keber
Ross J. Lieberman
Steve Pastorkovich
Thomas Steel
David S. Turetsky

Ownership Interests in Network Channels by Large Programmers

			
                        	                  <p>Walt Disney owns and operates 10 full power television stations affiliated with ABC.</p>      <p>A&E Networks co-owned by Walt Disney, NBC Universal, and Hearst-Argyle</p>	             <p>NBC Universal owns and operates 10 full power television stations affiliated with NBC, 16 stations affiliated with Telemundo, and one independent Spanish-language station.</p>	                <p>News Corp owns and operates 25 full power television stations affiliated with FOX, and 10 stations affiliated with MyNetworkTV.</p> <p>News Corp's Fox Sports Net includes an ownership interest in 16 regional sports networks.</p>
<p>A SAMPLE OF INDEPENDENT CHANNELS SEEKING CARRIAGE</p>			
          			