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October 17, 2014

VIA HAND DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Notice, Interpretation of the terms "multichannel programming distributor" and "channel" MB Docket No.12-83

Dear Ms. Dortch:

This letter is submitted pursuant to 47 C.F.R. Section 1.1206.

On October 15, 2014, the undersigned counsel to FilmOn X, LLC ("FilmOn") met with the following persons: William T. Lake, Chief of the Media Bureau; Michele Carey, Deputy Chief; Nancy Murphy, Associate Chief, Alison Neplakh, Chief Engineer; Mary Beth Murphy, Chief of the Policy Division of the Media Bureau; Steven Broeckaert, Senior Deputy Policy Chief; Mary Margaret Jackson; Brendon Murray, Assistant Division Chief; and Susan Aaron, Office of General Counsel.

The purpose of the meeting was to inform the Commission of FilmOn's intent to commence retransmission of local television broadcast stations to authenticated subscribers in local markets consistent with FCC Rules applicable to Multichannel Video Programming Distributors ("MVPD") and subject to any applicable Court Orders or decisions. FilmOn is an online video distributor of linear and on-demand video programming. It offers hundreds of channels of video programming and thousands of titles of video on demand.

Counsel to FilmOn explained that prior to the Supreme Court Opinion in *American Broadcasting Cos., Inc. v. Aereo, Inc.*, 134 S.Ct 2498 (2014), FilmOn had established head ends to receive, record and stream local broadcast station video programming to consumers in dozens of designated market areas. The Supreme Court determined such a service was similar to a cable system and had it existed in 1976, Congress would have made clear it intended to cover such service within the right of public performance. Following that decision, FilmOn ceased providing

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its service. FilmOn continues to litigate issues related to the applicability of the compulsory license under Copyright Act section 111.

Given recent news reports that the FCC was poised to consider adoption of a Notice of Proposed Rulemaking ("NPRM") to establish the legal obligations of online linear video distribution services such as FilmOn, within the definition of MVPDs, the undersigned emphasized that FilmOn intends to offer its service consistent with all regulatory obligations. FilmOn intends to offer TV stations the right to elect must carry or retransmission consent. FilmOn will also provide program exclusivity, emergency alerts and information, closed captioning, equal employment opportunity and to otherwise comply in good faith with all of the rules and regulations that govern MVPD service.

Counsel urged the FCC to move forward expeditiously to consider and adopt appropriate rules to create regulatory parity between similar services, and promote competition to entrenched legacy video providers that will benefit consumers by giving them more choices. Moreover, eliminating regulatory uncertainty will spur investment and create an environment where innovation will thrive. Counsel noted that online video distributors are not subject to the same capacity constraints of traditional cable systems or satellite systems and as a result could open carriage opportunities for new, independent and niche video programming services to achieve greater distribution and access new markets historically foreclosed to them.

Finally, counsel pointed out that another benefit of the carriage of local broadcast stations online is that such greater distribution rights could incent TV stations to participate in the incentive auction process, free more spectrum for mobile broadband services and help fund the establishment of a nationwide interoperable wireless public safety network for first responders by FirstNet.

Counsel pledged to keep FCC Staff apprised of its progress in securing the necessary consents of local TV broadcasters as FilmOn engages in good faith negotiations with them to provide fair compensation for the right to provide consumers with its innovative new online video distribution service as an MVPD.

In accordance with Section 1.1206 of the Federal Communications Commission rules, this letter is being provided to your office. A copy of this letter is being delivered via email to the persons listed below. Please contact the undersigned counsel at 202-463-4301 or Ryan Baker of Baker Marquart at 424-652-7800, if there are any questions.

Respectfully submitted,

/s/ Rebecca Rini

Rebecca Rini, counsel to FilmOn

cc (via e-mail):

Chairman Tom Wheeler
Commissioner Ajit Pai
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Michael O'Rielly
William T. Lake
Philip Verveer
Gigi B. Sohn
Maria Kirby
Jonathan Sallet
Adonis Hoffman
Clint Odom
Matthew Berry
Erin McGrath
Michele Carey
Nancy Murphy
Alison Neplokh
Mary Beth Murphy
Steven Broeckaert
Brendon Murray
Jennifer Tatel
Susan Aaron
Mary Margaret Jackson