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April 16, 2015

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Notice of Ex Parte Communication, MB Docket No. 15-53

Dear Ms. Dortch:

On Wednesday, April 15, 2015, Ross Lieberman of the American Cable Association ("ACA") and the undersigned met with Michelle Carey, Nancy Murphy and Steven Broeckaert, as well as Diana Sokolow and Mary Beth Murphy by phone, of the Media Bureau, to discuss the Commission's implementation of Section 111 of the STELA Reauthorization of 2014 ("STELAR").[1]

In the meeting, we discussed the Commission's proposal to adopt a rebuttable presumption that all cable systems face "competing provider" effective competition. We explained that adoption of such a presumption is the best mechanism to effectuate Congressional direction in STELAR that the Commission establish streamlined procedures for small cable operators to seek and obtain effective competition determinations. We explained the burdens small operators face under the current regime when they prepare effective competition petitions, and how the proposed presumption would alleviate these impediments. We also explained that the alternatives put forth by opponents of the proposed presumption are unlikely to overcome these burdens and persuade a small cable operator to seek an effective competition finding, even for those who undoubtedly would meet the "competing provider" test.

We also echoed the discussion in the NPRM and in the comments that video competition is robust almost everywhere, and that competing provider penetrations, including that of the DBS providers and the LEC overbuilders, were well over the 15 percent threshold in the vast majority of communities. As such, applying the presumption to all cable operators makes sense.

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[1] *Amendment to the Commission's Rules Concerning Effective Competition; Implementation of Section 111 of the STELA Reauthorization Act,* Notice of Proposed Rulemaking, MD Docket No. 15-53, FCC No. 15-30 (Mar. 16, 2015) *(NPRM)*.

Finally, we discussed how concerns expressed by NAB and others about the practical impact of effective competition determinations on the cost and availability of broadcast signals are overblown – that over 10,000 communities have been found to be subject to effective competition without any evidence of broadcast signals migrating from an operator's lowest priced, entry level "basic tier." There are a variety of factors, including marketplace forces and compulsory license costs, that make it unlikely that cable operators will reduce the availability of broadcast signals to subscribers.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), a copy of this notice is being filed electronically and a copy is being provided to each of the Commission participants in the meetings.

Please contact the undersigned if you have any questions regarding these issues.

Respectfully submitted,

/ Craig Gilley /

Craig A. Gilley
Counsel for American Cable Association

cc: Diana Sokolow
Michelle Carey
Nancy Murphy
Nancy Beth Murphy
Steven Broeckaert