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August 13, 2015

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Ex Parte Communication of the American Cable Association; *Amendment to the Commission's Rules Related to Retransmission Consent, MB Docket No. 10-71; Implementation of Section 224 of the Act Amendment of the Commission's Rules and Policies Governing Pole Attachments, WC Docket No. 07-245; National Broadband Plan for Our Future, GN Docket No. 09-51; Revision of the Commission's Program Access Rules, MB Docket No. 12-68.***

Dear Ms. Dortch:

On August 11, 2015, Matthew M. Polka, President and Chief Executive Officer of the American Cable Association ("ACA"), Robert Gessner, President, MCTV and ACA Board Chairman, and the undersigned met with Commissioner Jessica Rosenworcel and Valery Galasso, Policy Advisor to Commissioner Rosenworcel. During the meeting, issues related to the above-referenced proceedings were discussed.

Mr. Polka discussed the investments ACA's small and medium-sized operators have made over the years to upgrade their networks to provide higher-performance broadband services to residential and commercial customers. Mr. Gessner discussed his company's investments. Both Mr. Polka and Mr. Gessner then discussed barriers that interfere with ACA members' ability to make greater investments, including but not limited to, the excessive and increasing cost of video programming<sup>1</sup>, rising pole attachment fees, particularly from pole owners who are capitalizing on the Commission's reclassification

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<sup>1</sup> As ACA has previously explained, rising video programming costs charged to multichannel video programming distributors ("MVPDs") can act as a drag on broadband deployment. If these prices continue their upward spiral, providers of broadband and MVPD services will be deterred from expanding their broadband networks or otherwise undertaking new builds. Earlier this year, ACA submitted to the Commission a white paper detailing this phenomenon. *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 14-126, Reply Comments of the American Cable Association, Appendix (filed Apr. 6, 2015).

of broadband Internet access service as a Title II telecommunications service, and actions on the part of Federal, state, and local governments that demand unreasonable fees or otherwise delay infrastructure deployment.

Mr. Polka and Mr. Gessner explained that the Commission can help to address these concerns by first examining whether the Commission's existing rules and regulations, or lack of those that would be statutorily permitted, are contributing to the excessive and rising fees faced by small and medium-sized MVPDs and their customers. Specifically, Polka and Gessner suggested that the Commission's upcoming review of the totality of the circumstances standard contained in the good faith negotiation requirement of the retransmission consent rules be wide-ranging and that rules be adopted expeditiously. Moreover, they updated the Commissioner on the status of the rulemaking on modification of the program access rules to ensure that buying groups have the protection that Congress intended. Polka and Gessner explained that the updates to the rules sought by ACA in its filings in the rulemaking<sup>2</sup> would ensure that small and medium-sized cable operators that rely on buying groups to negotiate their programming agreements are treated fairly by cable affiliated programmers. Second, the Commission should complete its proceeding on utility-pole attachments to reduce in all instances the rates charged for telecommunications service to that charged for cable services. Finally, the Commission must recognize in every proceeding that all service providers are not the same. ACA members are small businesses that are considered part of the communities that they serve, and have excellent track records of responding to local concerns. Even as "last-mile providers" of broadband Internet access service, ACA members are far too small to exercise any leverage over transit and edge providers.

This letter is being filed electronically pursuant to section 1.1206 of the Commission's rules.

Sincerely,



Ross J. Lieberman

cc: Commissioner Jessica Rosenworcel  
Valery Galasso

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<sup>2</sup> See *Revision of the Commission's Program Access Rules, etc.*, Report and Order, MB Docket Nos. 12-68, 07-18, 05-192, Further Notice of Proposed Rulemaking in MB Docket No. 12-68, Order on Reconsideration in MB Docket No. 07-29, 27 FCC Rcd 12605 (2012); Comments of the American Cable Association (filed Dec. 14, 2012); Reply Comments of the American Cable Association (filed Jan. 14, 2013).