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Sept. 9, 2015

**Via ECFS**

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

**Re: American Cable Association Notice of Ex Parte Communication; Revision  
of the Commission's Program Access Rules, MB Docket No. 12-68**

Dear Ms. Dortch:

On Sept. 3, 2015, Matt Polka, President and CEO, American Cable Association ("ACA"); Ross Lieberman, Senior Vice President, Legal & Regulatory Affairs, ACA; Rich Fickle, President and CEO of the National Cable Television Cooperative, Inc. ("NCTC"); Monica Desai, Squire Patton Boggs, counsel to NCTC; and the undersigned, counsel to ACA, met with the following officials from the Media Bureau: Michelle Carey, Deputy Chief; Nancy Murphy, Associate Chief, Mary Beth Murphy, Chief, Policy Division; Steve Broeckaert, Senior Deputy Division Chief, Policy Division; Kathy Berthot, Policy Division; and Susan Aaron, Office of the General Counsel, via teleconference. The purpose of the meeting was to discuss the Commission's pending rulemaking on amending and clarifying the program access rules to ensure that buying groups have the protection that Congress intended, consistent with ACA's previous filings in this rulemaking.<sup>1</sup>

During the meeting, Mr. Fickle described the valuable role of the NCTC in facilitating access to programming networks for its member companies by negotiating the rates, terms, and conditions of master agreements with programming vendors that members can opt-in to, and serving as a liaison for the billing and collection of programming fees between the programming vendors and the member companies.<sup>2</sup> In particular, Mr. Fickle discussed the liability protections NCTC provides to programming vendors today, and how these compare to the financial assurances contemplated by the Commission's existing definition of a "buying group." Mr. Fickle reiterated NCTC's desire for the protections that Congress intended buying groups to enjoy under the program access rules.

ACA again encouraged the Commission to expeditiously (i) update its definition of a buying group so that NCTC, a buying group that has met near universal acceptance among

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<sup>1</sup> See *Revision of the Commission's Program Access Rules, etc.*, Report and Order in 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) ("FNPRM"); Comments of the American Cable Association (filed Dec. 14, 2012); Reply Comments of the American Cable Association (filed Jan. 14, 2013).

<sup>2</sup> NCTC is a Kansas not-for-profit corporation that operates as a programming and hardware purchasing organization for more than 850 regularly participating member companies that are multichannel video programming distributors ("MVPDs") serving an aggregate of approximately 8.5 million subscribers.

small and medium-sized cable operators and programmers, could qualify; (ii) clarify the standard of comparability for a buying group; and (iii) prevent cable-affiliated programmers from arbitrarily excluding members of buying groups from participating in their master agreements.

If you have any questions, or require further information, please do not hesitate to contact me directly.

Sincerely,



Barbara Esbin  
*Counsel to the American Cable Association*

cc: Michelle Carey  
Nancy Murphy  
Mary Beth Murphy  
Steve Broeckaert  
Kathy Berthot  
Susan Aaron