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March 28, 2016

Via ECFS

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

Re: *Ex Parte* Filing of the American Cable Association on Expanding Consumers' Video Navigation Choices, MB Docket No. 16-42, and Commercial Availability of Navigation Devices, CS Docket No. 97-80

Dear Ms. Dortch:

On March 24, 2016, Ross Lieberman, Senior Vice President of Government Affairs, and Mary Lovejoy, Vice President of Regulatory Affairs, American Cable Association (“ACA”), Zachary Cohen, Micah Sachs, David Huang, and Cecilia Tai, Cartesian, Consultant to ACA (by telephone), Barbara Esbin, Cinnamon Mueller, Counsel to ACA, and Thomas Cohen, Kelley Drye & Warren LLP, Counsel to ACA, met with the following Commission staff in regard to the above-referenced dockets:¹ Scott Jordan, Office of Strategic Planning & Policy Analysis, and from the Media Bureau, William Lake, Michelle Carey, Mary Beth Murphy, Brendan Murray, and Antonio Sweet.

Because ACA represents nearly 50 multichannel video programming distributors (“MVPDs”), it has a great interest in the *Navigation Device NPRM* wherein the Commission proposes, among other things, to mandate that MVPDs offer certain information flows and a content protection system to enable entities not affiliated with MVPDs to build competitive navigation devices. ACA appreciates that the Commission, in the *Navigation Device NPRM*,

¹ *In the Matter of Expanding Consumers' Video Navigation Choices*, MB Docket No. 16-42, *Commercial Availability of Navigation Devices*, CS Docket No. 97-80, Notice of Proposed Rulemaking and Memorandum Opinion and Order, FCC 16-18 (rel. Feb. 18, 2016) (“Navigation Device NPRM”).

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seeks comment on the effects of the proposed mandates on smaller MVPDs (those with 1 million or fewer video subscribers).² To more accurately determine these effects, ACA has retained Cartesian, a business consulting firm, to model the costs smaller MVPDs would incur to meet the new requirements, including to provide the necessary information flows and content protection system. ACA representatives, however, informed the Commission staff that because the *Navigation Device NPRM* appears unclear or inconsistent on how the proposed mandates would be implemented, they have found it to be overly difficult to develop a model that demonstrates the costs of the mandates on smaller MVPDs. For instance, the Commission in the *Navigation Device NPRM* states that “standardization and increasing reliance on IP allows for software solutions that...will make it easier to finally fulfill the purpose of Section 629;”³ yet, the proposed rules in Appendix A do not mandate that MVPDs deploy IP technology. Other questions arise about which content protection systems would comply with the requirement to be “licensable on reasonable and non-discriminatory terms, and...not be controlled by MVPDs.”⁴ In the meeting, ACA representatives sought clarity from the Commission staff about these and related issues which would enable it develop a model that would provide realistic cost estimates.

This letter is being filed electronically pursuant to Section 1.1206 of the Commission’s rules.

Sincerely,



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² *Id.*, ¶ 81.

³ *Id.*, ¶ 4.

⁴ *Id.*, ¶ 58.