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CS Docket No. 98-120

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Federal Communications Commission
Office of Secretary

July 2, 1999

The Honorable Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th. Street, S.W.
Washington, D.C. 20554

Re: MM Docket No. 98-120

Dear Ms. Salas:

This is filed in duplicate on behalf of the Association of Local Television Stations, Inc., to reflect discussions of issues in the above-referenced proceeding with the following Commissioners and Commission staff members on June 30, 1999, and July 1, 1999:

- June 30, 1999: Commissioner Gloria Tristani and Rick Chessen of her staff.
- June 30, 1999: Commissioner Susan Ness and Kim Mathews of her staff.
- July 1, 1999: Susan Fox, Mass Media Bureau.
- July 1, 1999: Tom Power, Legal Assistant to Chairman Kennard.
- July 1, 1999: Commissioner Harold Furchtgott-Roth and Helgi Walker, Katherine Harris, and David DuBose of his staff.
- July 1, 1999: Deborah Lathen, William Johnson, and Deborah Klein of the Cable Services Bureau.
- July 1, 1999: Commissioner Michael Powell and Marsha MacBride of his staff.

Attending the meetings on behalf of ALTV were Stuart Swartz, chairman of the board; James Hedlund, president; David Donovan, vice president, legal and legislative affairs; and the undersigned. Bob Giese, vice president of Chris-Craft broadcasting also attended. Beyond matters addressed in written comments and reply comments filed previously by ALTV, the following arguments were made:

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- ALTV urged that the Commission act promptly to adopt must carry rules for local television stations' digital signals. ALTV noted that local television stations must make retransmission consent/must carry elections for their analog signals by October 1, 1999, and were handicapped by uncertainty as to the status of their digital signals. Furthermore, many cable MSOs were unwilling to discuss carriage of stations' digital signals until the Commission concluded this proceeding and defined their must carry obligations. ALTV also noted that continuing consolidation of cable ownership in local markets further enhanced the already strong bargaining position of local cable operators *vis-a- vis* local television stations.

- ALTV opposed the notion of bifurcating the proceeding such that certain issues would be considered separately and more promptly than the basic carriage issue. ALTV expressed the concern that partial resolution of the issues in the proceeding would delay consideration of the central, critical issue, *i.e.*, the basic must carry obligation with respect to local television stations' digital signals. Moreover, resolution of the non-must carry issues would operate to the advantage of major network affiliates at the expense of emerging network affiliates and independent stations. The digital signals of major network affiliates likely will be carried pursuant to retransmission consent arrangements. Resolving issues pertinent to retransmission consent agreements would assist the major network affiliates in negotiating their carriage agreements. Meanwhile, affiliates of emerging networks and independent stations likely will be denied carriage of their digital signals. Thus, bifurcation would compound the injury of noncarriage for emerging network affiliates and independent stations seeking to place their digital facilities in operation.

- ALTV responded to the argument that broadcasters say on the one hand that satellite subscribers should install antennas to receive the signals of local network affiliates, but find antennas and A-B switches inadequate to receive local television stations' digital signals. ALTV pointed out that because cable systems carry local television stations' signals, cable subscribers almost invariably have taken down their outdoor antennas and discarded their rabbit ears. The likelihood that they would reinstall antennas just for the purpose of receiving off-air signals of the stations not already carried by a cable system is nil. Again, cable systems may be expected to carry the digital signals of major network affiliates irrespective of any must carry requirement. Furthermore, in some circumstances, such as apartment buildings, outdoor antennas are impractical or ineffective. In contrast, satellite subscribers just as routinely maintain their off-air reception capability because satellite carriers do not and

may not under current law provide subscribers with the signals of local affiliates. To suggest that they continue to rely on off-air reception of all local stations, including major network affiliates, is of considerably less moment than insisting that cable subscribers reacquire and reinstall off-air reception antennas just to receive the signals of local television stations other than the major network affiliates. Therefore, the circumstances are very different, and the arguments involve no inconsistency.

We would appreciate your directing any questions concerning this matter to the undersigned.

Very truly yours,

James J. Popham
Vice President, General Counsel

cc: The Honorable Susan Ness
The Honorable Harold Furchtgott-Roth
The Honorable Michael Powell
The Honorable Gloria Tristani
Deborah Lathen
Tom Power
Susan Fox