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April 4, 2000

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Federal Communications Commission
445 Twelfth Street, N.W., Room TW B-204
Washington, D.C. 20554

Re: CC Docket No. 98-146
Reply Comments of the American Cable Association

Dear Ms. Salas:

On behalf of the American Cable Association, we submit for filing an original and nine (9) copies of the Association's Reply Comments in the proceeding. We ask that each Commissioner receive a copy of these Reply Comments.

We also include a "FILE COPY." We ask that you date-stamp this copy and return it to the courier.

Please call with any questions.

Sincerely,

Eric E. Breisach (by JSJ)

Eric. E. Breisach

Enclosures

cc: American Cable Association

cc: Tom Power, Senior Legal Advisor to Chairman Kennard
Helgi Walker, Senior Legal Advisor to Commissioner Furchtgott-Roth
Rick Chessen, Senior Legal Advisor to Commissioner Tristani
Marsha MacBride, Legal Advisor to Commissioner Powell
David Goodfriend, Legal Advisor to Commissioner Ness
Deborah Lathen, Chief, Cable Services Bureau
William Johnson, Deputy Bureau Chief, Cable Services Bureau
John W. Berresford, Common Carrier Bureau (2 copies)

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Inquiry Concerning Deployment of	)	
Advanced Telecommunications	)	
Capability to All Americans in a	)	CC Docket No. 98-146
Reasonable and Timely Fashion,	)	
and Possible Steps to Accelerate	)	
Such Deployment Pursuant to	)	
Section 706 of the	)	
Telecommunications Act of 1996	)	

TO: The Commission

REPLY COMMENTS OF THE AMERICAN CABLE ASSOCIATION

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TO: The Commission

REPLY COMMENTS

I. INTRODUCTION AND BACKGROUND

The American Cable Association ("Association") files these Reply Comments on behalf of its nearly 300 member independent cable businesses and their smaller cable systems that serve more than 3 million customers nationwide.[1] Many of the Association's members have fewer than 1,000 total customers. Formerly known as the Small Cable Business Association, smaller, independent cable businesses formed the Association in 1993 to represent the collective interests of its members and to speak with a unified voice regarding issues affecting their businesses. The Association regularly represents its members' interests in Commission proceedings to inform the Commission of

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[1] *See In the Matter of Inquiry Concerning 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*, Notice of Inquiry in CC Docket No. 98-146 (rel. February 18, 2000) ("Second Advanced Services NOI").

characteristics and concerns of smaller and independently owned cable businesses and to ensure that Commission decisions do not unfairly and adversely impact the Association's members' businesses.

Many Association members have aggressively sought to deploy advanced services, including digital cable and high-speed Internet access, often in rural and high-cost areas. Despite low-density, often rural or insular service areas and resulting higher per-subscriber costs, the Association's members have sought, and continue to seek innovative solutions to providing advanced services to their subscribers. Notwithstanding these limitations, the Association's members are meeting this challenge with growing success.

II. DEFINITIONAL ISSUES SHOULD NOT DERAIL EFFORTS TO BRING ADVANCED SERVICES TO SMALLER COMMUNITIES AND RURAL AMERICA.

The Association supports a comprehensive review of all deployments of advanced services as part of this review; however, it also encourages greater refinement of the "broadband" definition as a separate proceeding.

Many technologies offer advanced services. Ensuring the availability of such services in smaller communities and rural America requires entrepreneurial spirit and innovation. It also requires flexibility — flexibility to build the infrastructure in a way that meets the present and future needs of customers in a cost-effective manner. Such flexibility necessarily requires Commission forbearance from creating definitional distinctions that will hinder, rather than encourage, continued rapid deployment.

As a result, the Commission cannot allow definitional issues to derail efforts to bring advanced services to smaller communities and rural America. For example, the

Commission's *Second Advanced Services NOI* and other recent decisions go to great lengths to address definitional issues, *e.g.*, distinguishing "advanced telecommunications capability," from "advanced services," "broadband services," or "high-speed services,"[2] or concluding that "advanced telecommunications capability" and "full broadband" are synonymous with each other but distinguishable from "one-way broadband".[3] Consider the following:

- The Commission has stated that it "use[s] the term 'full broadband' synonymously with the term 'advanced telecommunications capability,' *i.e.*, as having the capability of supporting, in both the downstream and the upstream directions, a speed in excess of 200 Kbps in the last mile[, and] the term 'one-way broadband' to refer to services with greater than 200 Kbps information carrying capacity in one direction, but not both, in the last mile."[4]

- The Commission, however, distinguishes between "advanced telecommunications capability" and "broadband services":

  - In the *First Advanced Services Report*, it "defined 'advanced telecommunications capability' as upstream and downstream communications paths 'having the capability of supporting . . . a speed . . . in excess of 200 kilobits per second (Kbps) in the last

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[2] *See* Second Advanced Services NOI at note 2 and Section III.

[3] *See In the Matter of Local Competition and Broadband Reporting*, Report and Order in CC Docket 99-301, FCC 00-114 (released March 30, 2000) at note 68 ("Local Competition and Broadband Reporting Order").

[4] *Id.*

mile.'"[5] In its *Second Advanced Services NOI*, the Commission uses that term when addressing the specific requirements of section 706.[6]

- In contrast, the Commission uses the term 'broadband services' to refer to a larger set of services that end users can access with asymmetric capabilities and speeds that are less than 200 Kbps, but are generally considered high-speed (*i.e.*, greater than 128 Kbps in a wireless environment or 144 Kbps in a wireline environment)."[7]

In its *Local Competition and Broadband Reporting* Order, the Commission concludes that "advanced telecommunications capability" and "full broadband" are synonymous, both having as key attributes the ability to deliver upstream and downstream speeds in excess of 200 Kbps in the last mile. "One-way broadband," as defined in that same order, contemplates speeds in excess of 200 Kbps but in one direction only. Nevertheless, as defined in the *Local Competition and Broadband Reporting* Order, broadband necessarily contemplates speed in excess of 200 Kbps.

In contrast, the *Second Advanced Services NOI* contemplates "broadband services" and "high-speed" services at speeds less than 200 Kbps. While Section 706 directs the Commission to monitor "the availability of advanced telecommunications capability to all

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[5] *See* Local Competition and Broadband Reporting Order at note 8 (citing *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*, Report in CC Docket No. 98-146, FCC 99-5 (released Feb. 2, 1999) at ¶ 20 ("First Advanced Services Report")).

[6] *See* Second Advanced Services NOI at note 2.

[7] *See Local Competition and Broadband Reporting* Order at note 8; *Second Advanced Services NOI* at note 2.

Americans,"[8] much of the *Second Advanced Services NOI* focuses on deployment of advanced or broadband services that do not necessarily meet the technical definition of "advanced telecommunications capability" set forth in Section 706 but nonetheless remain services in which Congress and the Commission have an interest in ensuring deployment.

III. DIRECT COORDINATION AMONG VARIOUS COMMISSION BUREAUS REMAINS IMPERATIVE.

As the *Second Advanced Services NOI* goes beyond common carrier issues and instead seeks information regarding all advanced services providers, it remains critically important that other bureaus have direct involvement in this proceeding. The Association reiterates the concern it expressed in the Commission's broadband reporting proceeding[9] — the need for direct Cable Services Bureau participation in proceedings involving advanced services issues. To the extent the Commission seeks to study cable television systems advanced services deployment activities, it remains critically important that the Commission appreciate the distinctions between advanced services offered by cable systems and those offered by other service providers. This compels the need for direct coordination among the Commission's various bureaus, including the Cable Services Bureau as the expert division regarding cable television systems and their unique issues.

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[8] *See* Second Advanced Services NOI at note 1 (referring to Section 706 of the 1996 Telecommunications Act, codified at 47 U.S.C. § 157).

[9] *See In the Matter of Local Competition and Broadband Reporting*, Comments of the American Cable Association in CC Docket No. 99-301 (requesting that the Commission bifurcate the docket to require Cable Services Bureau oversight of matters involving broadband issues).

IV. THE ASSOCIATION'S MEMBERS ARE ACTIVELY DEPLOYING ADVANCED SERVICES TO RURAL AMERICA AND INSULAR COMMUNITIES.

Smaller, independent cable entrepreneurs, many spurred by the deregulation provided in the 1984 Cable Act, built cable systems in places where no one else would -- not even the local telephone provider. These small businesses and individuals accepted the risk of building in high-cost and lower-income areas as well as the lower rates of return that service to rural America often dictates. Most built successful businesses serving rural America. Most of these smaller cable businesses have continued to invest in their communities over the years. Today, many provide or are about to launch new digital services, often including high-speed digital, data and Internet services in rural America. The marketplace for these smaller cable businesses works. Even in the face of vigorous competition in their core businesses from DBS, smaller cable continues to invest in rural America.

Smaller cable businesses have and continue to make tremendous strides in bringing advanced services to rural America. Through true entrepreneurial spirit, these businesses have sought and found creative solutions to build the infrastructure needed to provide advanced services. The American Cable Association estimates that almost half of its member businesses have already deployed at least one type of high-speed broadband services in rural communities. Many more have plans underway to launch similar services. It, however, remains a challenge, to provide these high-cost infrastructure investments in smaller and smaller communities.

The Association's members, both large and small, have deployed, and continue to seek solutions to introduce, advanced services. The Association highlights below some of its member successes:

MEDIACOM COMMUNICATIONS CORPORATION

As one of the nation's leading independent cable television companies serving approximately 719,000 customers, Mediacom Communications Corporation ("Mediacom") has in less than five years acquired and built cable systems passing more than 1.1 million homes in 21 states.[10] Mediacom has built its business serving principally nonmetropolitan and rural areas.

Mediacom has rebuilt many of the cable systems it has acquired and expects to spend about $140 million in 2000 to continue upgrading its cable network and launch digital cable and cable modem services in a greater number of systems. This would bring about 72% of Mediacom's cable network to a bandwidth of between 550 MHz and 750 MHz in December 2000.[11]

Recently, Mediacom announced the addition of high-speed Internet access in five markets, making such service available in systems passing a quarter of a million homes.[12]

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[10] *See* Mediacom Communications Launches High-Speed Internet Access Service in Five New Markets (Press Release, March 24, 2000), found at <http://www.mediacomcc.com> (last visited April 3, 2000).

[11] *See* Mediacom Communications Announces Record Results for Fourth Quarter and Fiscal Year 1999 (Press Release, February 28, 2000), found at <http://www.mediacomcc.com.> (last visited April 3, 2000).

[12] *Id.*

It expects by December 2000 to have digital cable and high-speed Internet access available in systems passing over 450,000 homes.

GALAXY COMMUNICATIONS

Galaxy Communications is a smaller cable television business that serves approximately 140,000 customers in more than 400 communities in 12 states, concentrating its efforts on smaller communities and rural areas. Galaxy has already deployed and continues to deploy advanced services throughout its service areas.

As an example, Galaxy has constructed a 900-mile fiber-optic network in Nebraska that serves 43 communities with an average population of less than 1,000 people, 63 rural school districts and colleges and 7 smaller rural medical centers. Communities as small as McCool Junction, Nebraska, population 372, have high-speed Internet access as a result of Galaxy's efforts.

Galaxy plans to continue its aggressive deployment of advanced services in upcoming years. It anticipates that more than one-third of its customer base will have access to two-way cable plant by year-end. It also projects capital spending of tens of millions of dollars over the next three years to upgrade and rebuild systems, build out fiber networks and launch new services.

PINE TREE CABLEVISION

Pine Tree Cablevision, serving approximately 14,000 customers over 23 systems, provides another example of a smaller cable business that is aggressively deploying advanced services, both digital cable and high-speed Internet access. Pine Tree Cablevision owns cable systems in Maine, New Hampshire and South Carolina.

Pine Tree Cablevision first introduced digital cable services to its Maine customers in December 1997 and high-speed Internet access in September 1998. Today, 80% of its Maine customers have digital cable (DCTV) and high-speed Internet access available, and Pine Tree Cablevision anticipates availability of those services to 100% of its approximately 5,500 Maine customers during 2001. For its Maine systems, Pine Tree Cablevision has achieved digital cable penetration of approximately 15-20%, and five percent currently subscribe to high-speed Internet access with expected penetration of 15-20% by year-end. Pine Tree Cablevision plans to replicate those service offerings in New Hampshire and South Carolina, starting with DCTV and high-speed Internet at one system in South Carolina this summer. It will use a combination of technologies, including HITS2Home and interconnection of systems using fiber optics and coaxial cable to expand all the new cutting-edge technologies in South Carolina and New Hampshire, as it has already done in Maine. Using fiber optics as a supplement to coaxial cable, Pine Tree Cablevision has found that it can efficiently and cost-effectively make services available to areas it previously could not have served.

RURAL ROUTE VIDEO

Many of the smallest of cable television systems are successfully introducing advanced services. Rural Route Video, serving approximately 420 customers, is an example. Route Rural Video operates a cable system in a remote part of Southern Colorado that serves 350 to 400 cable customers, including customers that reside on the Southern Ute reservation. A year ago, Rural Route Video introduced high-speed data services. Today, those services have a penetration of approximately ten percent. With

as few as 30 data customers, Rural Route Video has found it economically viable to offer high-speed Internet services.

As these examples highlight, the Association's members, regardless of size, are actively deploying advanced services to smaller communities and rural America.

CONCLUSION

Strong evidence exists that communications businesses, big and small, are actively deploying advanced services to all Americans, including smaller communities and rural Americans. Flexibility remains the key to success — only by giving communications entities room to develop innovative solutions will the Commission foster deployment of advanced services in rural America.

Respectfully submitted,

AMERICAN CABLE ASSOCIATION

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