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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 5, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

Re: *Ex Parte*: Carriage of Digital Television Broadcast Signals,
CS Docket No. 98-120

Dear Ms. Dortch:

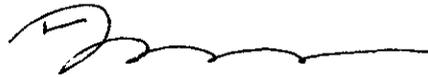
On September 5, 2002, Steven Teplitz, Vice President and Associate General Counsel, AOL Time Warner Inc., and the undersigned, of Paul, Weiss, Rifkind, Wharton & Garrison, met with Commissioner Abernathy and Bryan Tramont, Senior Legal Advisor, to discuss issues relating to the digital must-carry proceeding. The specific topics of discussion were the meaning of "primary video . . . transmission" in 47 U.S.C. § 534(b)(3), and the First Amendment implications of any interpretation that would require cable operators to carry "multicast" programming.

During the meeting, we summarized AOL Time Warner's views as detailed in filings submitted by Time Warner Cable on May 25, 2001 and August 16, 2001, and by Home Box Office on June 11, 2001. In particular, these filings urge the Commission to reaffirm its conclusion that "primary video" includes only a single video stream. To the extent the Commission considers altering this conclusion in a manner that would require cable operators to carry multiple video streams, we argued that such rules would be unconstitutional pursuant to the test set forth in *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622 (1994).

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Pursuant to Section 1.1206(b) of the Commission's rules, two copies of this notice are being provided to you for inclusion in the public record in the above-captioned proceeding. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Henk Brands', with a long horizontal flourish extending to the right.

Henk Brands
Counsel for Time Warner Cable

cc: Commissioner Abernathy
Bryan Tramont