

February 3, 2005

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

Re: **Ex Parte Notification**
CS Docket No. 98-120

Dear Ms. Dortch:

On February 2, 2005, Philip Lombardo, Chairman of NAB's Board of Directors, Eddie Fritts, President of NAB and Marsha MacBride, Executive Vice President of NAB, met separately with Commissioner Kevin Martin and his Legal Advisor Catherine Bohigian, and Commissioner Jonathan Adelstein and his Legal Advisor, Eric Bash. On February 3, 2005, the same NAB representatives met with Commissioner Michael Copps and his Legal Advisor, Jordan Goldstein. The purpose of the meetings was to discuss the critical issue of cable carriage of DTV multicasting. NAB's representatives stressed the importance to viewers and to the future vibrancy of free over-the-air television of a Commission DTV must carry rule requiring cable operators to carry all free programming contained within the 6 MHz broadcast DTV signal.

NAB's representatives discussed the importance of broadcasters' using DTV technology to its fullest to provide over-the-air consumers with the benefits of another platform for multiple video distribution. The governmental interest in promoting this nascent business is therefore substantial. Indeed, public policy should encourage broadcasters to produce as much free over-the-air programming as possible. Adding more free program choices for consumers and strengthening the vibrancy of the over-the-air television system with potential new revenue streams provides new, tangible public interest benefits not present in the analog world. But without cable carriage of multicast streams and access to the two-thirds of the audience controlled by cable, broadcasters and program developers simply will not have the economic base to produce and broadcast a variety of free program streams, including new public interest programming such as additional children's programming and free news channels. Multicasting will be stillborn, and the FCC will have resigned over-the-air television viewers to single stream television viewing, despite the capabilities of the new DTV technology.

The group also discussed how cable carriage of a 6 MHz DTV broadcast channel is no more burdensome for cable whether the channel has one HDTV stream or five multicast streams. The burden imposed by carriage of a digital broadcast signal – whether a single HD program or multiple SD programs – is less as an absolute matter than the burden imposed by analog must carry that the Supreme Court approved in the *Turner* cases. Cable systems can carry *two* 6 MHz digital broadcast signals in one 6 MHz cable channel, rather than carrying just one 6 MHz analog channel in one cable channel. Moreover, given the explosion of cable capacity and the lack of any increase in the absolute burden, the *relative* burden imposed by carriage of the full video DTV stream is a fraction of that approved for analog carriage.

Sincerely yours,



Marsha J. MacBride

cc: Commissioner Michael Copps
Commissioner Kevin Martin
Commissioner Jonathan Adelstein
Jordan Goldstein
Catherine Bohigian
Eric Bash