

CINNAMON MUELLER
A Professional Limited Liability Company
307 North Michigan Avenue, Suite 1020
Chicago, Illinois 60601
Telephone: 312-372-3930
Facsimile: 312-372-3939

June 21, 2006

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
455 12th Street, S.W.
Washington, D.C. 20554

Via ECFS

Re: American Cable Association (“ACA”); Notice of Ex Parte Presentation; CS Docket Nos. 98-120, 00-2, 00-96

Dear Ms. Dortch:

Under 47 CFR § 1.1206(b), we electronically provide this notice of an ex parte oral presentation in the dockets listed above. On June 16, 2006, Matthew Polka, President and CEO of the ACA, Robert Shema, Vice President and COO of the ACA, and Emily A. Denney of Cinnamon Mueller, outside legal counsel to the ACA, had a telephone conference with Commissioner Robert M. McDowell and his legal advisor, Cristina Chou Pauzé.

The purpose of the meeting was to discuss the significant burdens that multicast must carry would impose upon small and medium-sized cable operators. The meeting included a discussion of a handout summarizing these issues. We attach a copy of that handout to this letter.

Sincerely,



Emily A. Denney

cc via email:

Cristina Chou Pauzé (cristina.pauze@fcc.gov)

mcdowell ex parte 062106



Independent Companies. One Voice.
One Parkway Center, Suite 212
Pittsburgh, Pennsylvania 15220-3505

MULTICAST MUST CARRY

About the American Cable Association. ACA represents 1,100 small and medium-sized cable companies that serve more than eight million cable subscribers, primarily in smaller markets and rural areas. ACA member systems are located in all 50 states and in virtually every congressional district. The companies range from family-run cable businesses serving a single town to multiple system operators that focus on serving smaller markets. More than half of ACA's members serve fewer than 1,000 subscribers. In the smaller markets they serve, ACA members continue to work hard to deploy advanced services such as digital cable. For those members that have not yet launched digital broadcast services, most have plans to do so.

Many smaller cable operators would not have the channel capacity to operate under multicast must carry rules – even on upgraded systems. Two factors contribute to this – high equipment costs that small businesses cannot support and retransmission consent tying arrangements.

Equipment Costs. Equipment costs are prohibitive for many operators. For example, converting one channel from analog to digital costs roughly \$2,500. Equipment used to process and filter multiple video signals costs at least \$15,000. Non-integrated set-top boxes to process DTV signals are also expensive. ACA has filed comments supporting a petition submitted by Comcast for a waiver from the current integration ban for certain low-cost, limited-capability set-top boxes. If multicast must carry requirements are imposed, smaller operators will require system upgrades to have more capacity. Yet system upgrades are extremely costly, particularly for smaller cable operators who have limited access to capital and already face increasing programming costs and high retransmission consent fees. High headend-related costs will in turn increase costs for basic cable service for subscribers.

Retransmission consent tying by programming conglomerates results in constrained channel capacity on digital tiers. The current retransmission consent rules allow broadcasters to force carriage of unwanted programming on smaller cable operators. Disney, Fox, Hearst-Argyle and others force carriage of affiliated satellite programming on small and medium-sized cable operators as a condition for granting retransmission consent for their local broadcast affiliates. More often than not, these conglomerates also force cable operators to pay per-subscriber fees for the affiliated programming. These "tying arrangements" result in constrained bandwidth, "locking up" available channel capacity on upgraded systems. If multicast must carry requirements are imposed, smaller cable operators face the possibility that their upgraded systems lack the capacity to carry mandated programming because of programming carried under forced carriage agreements.

Suggested Relief. If multicast must carry rules are imposed, the Commission must craft relief for small operators. For smaller systems, ACA recommends exempting small systems from the requirement. However, if the Commission takes a "one-size fits all" approach to multicast must carry, then it should exempt smaller cable systems from mandatory carriage of multicast signals unless broadcasters provide necessary equipment or at least share in the cost related to system upgrades. Most importantly, the Commission must evaluate the retransmission consent rules which contribute to the problem of loss of bandwidth on smaller cable systems.