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July 8, 2006

Marlene Dortch, Esq.
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: MB Docket No. 05-192

Dear Ms. Dortch:

Attached is an email that I sent to the Legal Advisors to the members of the Commission. Through inadvertence, this was not filed yesterday.

Respectfully submitted,

//signed//

Kathleen Wallman

Kathleen Wallman

From: wallman@his.com
Sent: Thursday, July 06, 2006 3:21 PM
To: fred.campbell@fcc.gov; jessica.rosenworcel@fcc.gov; cristina.pauze@fcc.gov;
john.grant@fcc.gov; rudy.brioche@fcc.gov

Dear Advisors:

I write on behalf of The America Channel. We have sought conditions in the Adelphia transaction to protect the ability of independent programmers like us to gain access to the distribution platforms of Comcast and TW, from which our foreclosure will be complete upon consummation of this transaction. Our harm is specifically tied to this transaction.

In various documents submitted in this proceeding the transacting parties have claimed lack of capacity as a reason to deny carriage to independent programmers like us. If that is true, the arbitration condition that we requested in this proceeding would accommodate such a concern by permitting an independent programmer to provide empirical evidence of available capacity, and whether the use of that capacity is used in a way that unreasonably excludes independent channels.

Please feel free to call me if you have questions about this.

A copy of this email will be filed in the docket.

Kathy Wallman 202-641-5387