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October 30, 2006

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Office of the Secretary  
445 Twelfth St., SW  
Washington, DC 20554

**Re:**                **Notice of *ex parte* communication**  
                         WT Docket No. 05-194  
                         WT Docket No. 05-193,  
                         CS Docket 97-80  
                         MM Docket No. 92-264

Dear Ms. Dortch:

On October 27<sup>th</sup> Gene Kimmelman, Vice President for International and Federal Policy, Consumers Union met with Chairman Kevin Martin to discuss a variety of consumer issues, ranging from cell phone early termination fees to cable concentration and set top box issues under consideration in the dockets noted below.

Mr. Kimmelman reiterated CU's position as articulated in WT Docket No. 05-194, In the Matter of Petition for Declaratory Ruling Cellular Telecommunications & Internet Association and WT Docket No. 05-193, Petition for Declaratory Ruling Filed by SunCom Wireless Operating Company, that granting the industry petitions to preempt state laws on early termination fees will subject consumers to abusive and fraudulent industry practices and illegal contract penalties without any adequate recourse or effective remedy. He highlighted the need for the Commission to both avoid interfering with traditional police powers of the state by preempting both positive consumer protection laws as well as common law requirements relating to cell phone contract penalties and other terms, and to ensure that consumers are not charged penalties that exceed reasonable estimates of damages when they terminate their wireless phone contract and switch to a new carrier.

Regarding CS Docket 97-80, Implementation of Section 304 of the 1996 Telecommunications Act, Commercial Availability of Navigation Devices, Second Report and Order; and MM Docket No. 92-264, Cable Horizontal and Vertical Ownership Limits and Attribution Rules, Mr. Kimmelman reiterated the position CU presented in our filing in MM Docket No. 92-264 reflecting consumers' desire to promote more competitive markets in cable programming and presented concerns regarding the lack of retail competition for set top boxes/cable equipment. He highlighted the need for the Commission to promote greater choice of programming channels, unbundled from each other, as a critical tool to eliminate anti-competitive bottlenecks in the cable equipment and cable programming markets.

Sincerely,

/s/

Jeannine Kenney  
Consumers Union