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December 11, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

***via Hand Delivery***

**Re: American Cable Association ("ACA") / Comcast Set-Top Box Waiver request; CS Docket No. 97-80; CSR-7012-Z**

Dear Chairman Martin:

On behalf of ACA and its nearly 1,100 member companies, I and the senior executives of five leading ACA members write to ask the Commission to promptly grant Comcast's waiver request for certain low-cost, limited functionality set-top boxes ("LCSTBs").[1] Comcast and others have thoroughly briefed the legal and policy issues raised by Comcast's request, and we have filed comments in support of the waiver request.[2] Since filing those comments, we have learned of Motorola's and Scientific-Atlanta's plans for "low-end" set-top boxes if the waiver is not granted. In short, the price of the entry level digital set-top box will nearly triple, thus eliminating a low-cost digital set-top box option.

As explained below, by using a LCSTB such as the DCT-700, more and more ACA members are offering a digital simulcast service, on the road toward the digital transition.

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[1] *In the Matter of Comcast Corporation's Request for Waiver of 47 CFR § 76.1204(a)(1),* CS Docket No. 97-80, CSR-7012-Z (April 19, 2006).

[2] *In the Matter of Comcast Corporation's Request for Waiver of 47 CFR § 76.1204(a)(1), Comments of the American Cable Association*, CS Docket No. 97-80, CSR-7012-Z (June 15, 2006).

Several ACA members are offering all-digital basic and expanded basic for just $2-$3 dollars more than the analog version. With the service comes a programming guide with advanced parental control features, and access to Video on Demand. Customer response has been extremely positive. For operators, a low-cost digital simulcast service is driving digital penetration and setting the stage for the transition to all-digital networks in smaller markets.

The lynchpin to a low-cost digital simulcast service is availability of a LCSTB. And we now know that, absent a waiver of the integration ban for these boxes, there will be no LCSTB available next year. This will increase costs to consumers, slow digital penetration, and stall the transition to all-digital networks in small markets.

Because of the critical importance of this issue to ACA's members and their customers, ACA is joined on this letter by its members Armstrong Utilities, Inc. ("Armstrong"), Atlantic Broadband Finance, LLC ("Atlantic Broadband"), Bend Cable Communications, LLC ("BendBroadband"), Cable ONE, Inc. ("Cable ONE"), and The World Company ("Sunflower Broadband"). Each of these companies explains the importance of LCSTBs, and the consequences if the waiver is not granted.

## II. Low-cost, limited-functionality set-top boxes are driving the digital transition in smaller markets.

ACA members have invested hundreds of millions of dollars to move towards all-digital networks in lower-density markets. LCSTBs are the key to this transition. With a per-box cost of approximately $80-$90, cable operators can offer a digital simulcast service for just a few dollars more than the cost of analog expanded basic. Moreover, the LCSTBs allow ACA members to provide programming directed toward the specific needs and interests of their communities.

We describe below how some of ACA's members are using these LCSTBs, and how the failure to grant waivers for these boxes will hurt their subscribers and the digital transition.

**Armstrong.** Armstrong serves about 230,000 subscribers in low-density markets. The company has invested more than $1.6 million to offer its new, all-digital product, TV Plus.[3] Armstrong uses the Motorola DCT-700 to provide TV Plus. The DCT-700 costs Armstrong only about $80 per box (even less than a unidirectional CableCARD), and allows Armstrong to offer TV Plus for just $2.95 more per month than analog expanded basic. In contrast, Armstrong recently discovered that the DCH-100 (the CableCARD-compatible replacement for the DCT-700) will cost Armstrong nearly three times as much as the DCT-700. Without a waiver for the DCT-700, Armstrong will be required to add $2.00-$4.00 per month to its TV Plus service to cover the increased cost of the DCH-100. Based on its experience with higher-priced set-top boxes, the company expects that the increased cost of separable security will dissuade an entire sector of price-sensitive customers from taking digital services. In short, failure to grant a waiver of the integration ban for the DCT-700 will significantly impede digital penetration and Armstrong's transition to an all-digital network. Because of Armstrong's concern over the current uncertainty of the DCT-700, it has recently filed a separate waiver request with the Commission.

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[3] *See Letter to Heather Dixon, Legal Advisor to Chairman Kevin Martin from Jeff Ross, President, Armstrong Utilities, Inc.;* CS Docket No. 97-80; CSR-7012-Z (September 11, 2006).

**Atlantic Broadband.** Atlantic Broadband serves about 280,000 basic subscribers in the eastern U.S. The company has deployed approximately 150,000 low-cost integrated analog/digital boxes, including the Motorola DCT-2000 and DCT-2500 and the Scientific Atlanta Explorer 3000 series. Atlantic Broadband uses the LCSTBs to provide themed tiers and targeted a la carte programming. In its Miami system, for example, the company uses the LCSTBs to offer three Spanish tiers, and Russian and Portuguese a la carte channels. Atlantic Broadband had been planning to move to digital simulcast in all of its systems predicated on using a box like the Motorola DCT-700 or Scientific Atlanta E940. Given the new information on the cost of CableCARD-enabled boxes like the DCH-100, Atlantic Broadband must reconsider these plans. The company cannot justify such a large investment in CableCARD-compatible boxes because the technology will soon be eclipsed by downloadable security or OpenCable Application Platform ("OCAP") security. Accordingly, if the Commission fails to waive the integration ban for LCSTBs, Atlantic Broadband anticipates that it will put further deployment of digital services on hold until downloadable or OCAP security is available.

**BendBroadband.** BendBroadband serves about 34,000 subscribers in and around Bend, Oregon. In the 12 months since BendBroadband started leasing the DCT-700 to its subscribers, it has increased digital penetration 33% because the company is able to lease the DCT-700 and provide its subscribers digital cable for a total of only $4.90 per month more than analog cable. BendBroadband uses the LCSTBs to provide local video on demand to its subscribers, including a morning talk show, city council meetings, a Spanish-language community affairs show, plus more than 50 prep-sports games. The company also uses the boxes to provide subscribers with digital simulcast programming, themed special interest programming, VOD and SVOD, digital music, and an interactive guide. If the Commission does not grant a waiver for the DCT-700 and BendBroadband is required to deploy the DCH-100, BendBroadband's overall capital expenses will increase by 15-20%, and consumer prices for LCSTB's will rise by $3-$5 per month, derailing digital growth. As a result, BendBroadband will be forced to abandon its goal of going all-digital in 2008. Because of Bend's concern over the current uncertainty of the DCT-700, it has recently filed a separate waiver request with the Commission.

**Cable ONE.** Cable ONE serves about 695,000 subscribers in 19 states. About 32% of the company's subscribers currently have digital services. In order to move to an all-digital platform, the company plans to begin digital simulcasting and deploying LCSTBs to its remaining subscriber base beginning in 2007. Cable ONE management reports that the all-digital move will be cost prohibitive without integrated boxes like the DCT-700. Accordingly, if these boxes are not carved out of the integration ban, Cable ONE will need to re-evaluate its plans and the economic feasibility of moving to an all-digital network throughout its footprint.

**Sunflower Broadband.** Sunflower Broadband serves about 30,000 subscribers in and around Lawrence, Kansas. The company has deployed almost 16,000 DCT-700 LCSTBs to formerly analog-only subscribers. These subscribers receive a digitized basic lineup and about 20 additional digital channels for only $3.95 more per month. Absent a waiver for LCSTBs like the DCT-700, Sunflower Broadband will be forced to deploy the DCH-100, for which it will need to charge $6.95 per month – nearly twice the current cost of a DCT-700. Sunflower Broadband's analog customers are extremely price-sensitive, and they are not willing to pay this higher cost for digital services. Accordingly, Sunflower Broadband management reports that if

the Commission does not grant a waiver of the integration ban for LCSTBs, "it will slow down or halt" the company's digital transition.

Sunflower also reports that failure to grant the requested waiver will necessarily raise the price of access to the advanced parental controls available only on Sunflower's digital program guide, and will affect the company's ability to provide family and genre tiers. This is because programmers require smaller operators to achieve a certain digital penetration rate before the programmers will permit tiering. In other words, if the Commission does not grant a waiver for the DCT-700, Sunflower's digital transition will be slowed or halted, and its contractual ability to provide family-friendly and genre tiers will be correspondingly delayed. Because of Sunflower's concern over the current uncertainty of the DCT-700, it has recently filed a separate waiver request with the Commission.

## III. Conclusion

LCSTBs like the DCT-700 are popular with consumers and are driving the digital transition in the price-conscious smaller markets served by ACA's members. The planned CableCard-enabled replacements will triple the cost of the boxes, with no difference in the services offered. There is no discernible public interest in requiring consumers to pay more for digital simulcast service. Denying waivers for LCSTBs like the DCT-700 will mean that small-market consumers must give up affordable digital services and interactivity or move to a more expensive set-top box. A waiver of the integration ban for LCSTBs like the DCT-700 is critical if the digital transition is to continue in low-density and rural markets.

Yours sincerely,

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