May 16, 2007

SUMMARY OF
***EX PARTE* PRESENTATION**

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWA325
Washington, DC 20554

Re: Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act, Sunset of the Exclusive Contract Prohibition, MB Docket 07-29

Dear Ms. Dortch:

Yesterday, Kevin Rupy and I of the United States Telecom Association (USTelecom) and Jack Day of SureWest Communications, Jeff Lanning of Embarq and Carrie Rice of HickoryTech Corporation met with Thomas L. Horan and Rosemary C. Harold of the Media Bureau, to discuss the Commission's proceeding on the sunset of the exclusive contract prohibition contained in Section 628(c)(5) of the Communications Act (the "Program Access Rules"). During the meeting, USTelecom and its individual company representatives emphasized the importance retaining the Program Access Rules for an additional five years.

We stressed the fact that the Program Access Rules tremendously benefit small telecom companies competing in or entering the video market, particularly in rural areas. It was noted that the rules enable these small competitors to provide competitive video services, thereby justifying the expansion and improvement of their existing networks into outlying, rural areas. Through this expansion, these same small companies are able to provide the triple play services consumers demand, thereby ensuring aggressive competition with the local cable incumbent.

In this regard, it was also noted that the robust deployment of video programming afforded by the Program Access Rules is inextricably linked to the Commission's mandate to deploy advanced

telecommunications services to all Americans in a timely manner.[1] As the Commission aptly concluded in its recent franchise reform order, increased broadband deployment and enhanced cable competition are "linked intrinsically" to a provider's ability to offer video services.[2] Extension of the Program Access Rules will ensure that small telecom companies in particular will retain the financial incentive to deploy more robust broadband platforms as a component of their associated video offerings.

Finally, we discussed the fact that major incumbent cable operators retain the incentive to use access to programming as a competitive barrier to entry. As an example, the acquisition of two regional sports networks (RSNs) by Comcast Corporation in April 2007 was recently cited by one financial analyst as a strategic move that would "bolster their competitive position vis a vis satellite and the telcos if current Program Access rules . . . eventually sunset."[3] This same analyst concluded that the acquisition of RSNs by incumbent cable operators are "all about bolstering the core cable business, not diversification away from it."[4]

Pursuant to Section 1.1206(b) of the Commission's rules, one copy of this electronic notice is being filed in the above-referenced docket. Please call me if you have any questions.

Sincerely,

Glenn Reynolds
Vice President, Policy

cc: Thomas L. Horan
Rosemary C. Harold

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[1] 47 U.S.C. §706(a). Under Section 706 of the Communications Act the Commission is directed to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing . . . regulating methods that remove barriers to infrastructure investment."

[2] *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992,* Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd. 5101, ¶62 (2007) *(Franchise Order).*

[3] Communications Daily, May 1, 2007, p. 7.

[4] *Id.*