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August 24, 2007

**EX PARTE**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**RE: Implementation of Section 621(a) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Dkt No. 05-311;**

**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 Licensees and their Affiliates; and Sunset of Exclusive Contract Prohibition, MB Dkt No. 07-29;**

**Carriage of Digital Television Broadcast Signals: Amendment of Part 76 of the Commission's Rules, CS Dkt. No. 98-120**

Dear Ms. Dortch:

On August 23, 2007, Will Johnson and I met with Monica Desai, Chief of the Media Bureau, and the following members of her staff: Elizabeth Andrión, Mary Beth Murphy, Eloise Gore, Brendan Murray, Holly Saurer, Katie Costello, and David Konczal to discuss our positions in the above-referenced proceedings.

Regarding program access, we argued that, given the current critical time in the development of video competition, the Commission should extend its existing ban on exclusive contracts between cable operators and their affiliated programmers, although this restriction should sunset after competition firmly takes hold. We also asked the Commission to ensure that vertically integrated programmers not be permitted to artificially carve up programming that is subject to the program access rules into different "feeds," in an effort to deny competitors with access increasingly essential HD programming. In addition, we suggested that the Commission adopt a firm deadline of five months for resolving all program access disputes and a standstill requirement for disputes over the renewal of programming contracts.

On cable customer service regulations, we stated that while local franchising authorities (LFAs) have flexibility under the Cable Act to adopt reasonable cable customer service requirements, they do not have unfettered discretion to adopt any regulation over video and broadband providers just by characterizing it as a "customer service" regulation. We asked the Commission to make explicit that any state or local customer service regulations, to avoid

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federal preemption, must be true "customer service" regulations, and not other regulations in disguise. Moreover, such regulations must be limited to cable services, and may not unreasonably burden competitive video entry. Finally, we urged the Commission to reiterate that any local cable customer service regulations that undermine federal policies encouraging broadband deployment and video competition are preempted.

On the issue of carrying must-carry stations after the transition to DTV, we asked the Commission to retain its current degradation standards that ensure picture quality. We also reiterated that providers transitioning to all-digital systems and services need flexibility to address issues concerning their customers' ability to view digital programming on analog television sets.

Sincerely,

A handwritten signature in black ink, appearing to read "James H. Edwards". The signature is written in a cursive style with a prominent initial "J" and "E".