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ORIGINAL

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Federal Communications Commission  
Office of the Secretary

**VIA HAND DELIVERY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, DC 20002

Re: Ex Parte Communication  
MB Docket Nos. 07-29, 98-120 and CSR-7108

Dear Ms. Dortch:

On behalf of RCN Telecom Services, Inc. ("RCN") and Surewest Communications ("Surewest"), and pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, this is to provide notice of an *ex parte* meeting held on September 6, 2007. The meeting was attended by Mr. Peter D. Aquino, RCN's Chief Executive Officer, Mr. Richard Ramlall, RCN's Senior Vice President, Strategic, External and Regulatory Affairs, Ms. Lynne Buening, RCN's Vice President, Programming, Ms. Amy R. Mehlman of Mehlman Capitol Strategies, Inc., and the undersigned (the "RCN Participants"), and Mr. Jack Day, Manager, External Relations, Surewest (together, the "RCN/Surewest Participants"). The RCN/Surewest Participants met with Commissioner Deborah Taylor Tate and Ms. Amy Blankenship, Legal Advisor to Commissioner Tate (the "FCC Participants"). The purpose of this meeting was to discuss some of the points raised in RCN's and/or Surewest's comments filed in MB Docket No. 07-29 (Program Access Extension), MB Docket No. 98-120 (Dual Carriage), and CSR-7108 (America Channel).

In addition to discussing other matters addressed in their comments in MB Docket No. 07-29, the RCN/Surewest Participants discussed their position that program access complaints should be resolved in an expedited manner and with discovery rights that are both adequate for complainants to be able to prove their case as to discriminatory conduct and appropriately provide for confidentiality of

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Marlene H. Dortch, Secretary  
September 7, 2006  
Page 2

information consistent with the Commission's protective order procedures. The RCN/Surewest Participants also stated that a 90-day deadline for resolution of program access exclusivity and discrimination disputes would appropriately reflect Section 628's admonition that program access complaints should be resolved expeditiously. The RCN/Surewest Participants noted that a 90-day procedure is consistent with the Commission's similar time frames adopted in connection with the Adelphia decision in MB Docket No. 05-192, and in relation to the Section 271 dispute resolution process. They also discussed the need for additional program access protections to prohibit anticompetitive exclusive agreements for non-duplicable 'must have' third party programming.

The RCN Participants also addressed questions about the RCN's position on dual must-carry carriage requirements that are proposed in MB Docket No. 98-120. In response, they stated that the marketplace and not government mandate should dictate whether a cable operator devotes valuable additional capacity to transmit broadcast channels in two formats. For example, RCN currently carries 10-15 must carry stations in each market. If there is a dual must carry obligation, this would mean that 60-90 MHz of additional analog spectrum would have to be dedicated to broadcast stations that are also being carried by RCN in digital format. This significant capacity would therefore be rendered unavailable for RCN's business purposes, such as additional *a la carte* offerings similar to RCN's popular Hispanic "Mi Vision" *a la carte* service, additional high definition (HD) programming, additional video-on-demand (VOD) options, higher capacity broadband services, and the like.

Even assuming that the must carry stations would bear the cost of the "down-conversion" of their digital signals to analog format (which should clearly be the case), a dual carriage obligation would be financially onerous in the case of new competitive entrants whose cost structures and margins are such that the foregone revenue from the considerable spectrum required to make two separate streams of carriage for each must carry station would impose significant financial hardship and therefore impair their ability to compete.

Should the Commission nevertheless decide to afford must carry broadcast stations the opportunity for dual carriage on cable systems, such a requirement should be limited to a transition period of no more than 2 years and should be carefully targeted and limited to addressing only the ability for subscribers to view the channel. Accordingly, a cable operator should not be required to devote spectrum to analog carriage if all of its subscriber households have digital service and can therefore view a must carry station's digital signal. Moreover, an essential aspect of any dual carriage obligation is that an operator must have

Marlene H. Dortch, Secretary

September 7, 2006

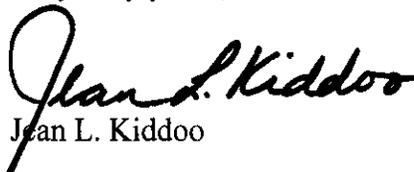
Page 3

discretion to determine the channel position of the analog channel. This is necessary in order for spectrum efficiently purposes so that an operator can group analog channels together.

In connection with CSR-7108, the RCN Participants provided a copy of the attached document showing the extensive list of NCAA colleges and universities that will be carried on the America Channel.

Should any additional information be required with respect to this *ex parte* notice, please do not hesitate to contact me.

Very truly yours,



Jean L. Kiddoo

Attachment  
cc (by e-mail): FCC Participants

**America Channel**  
**NCAA Division I Colleges and Universities**

I. America Channel - NEW ENGLAND Region

1. Northeastern University
2. College of the Holy Cross
3. Boston University
4. University of Hartford
5. University of Maine
6. University of New Hampshire
7. University of Vermont
8. Harvard University
9. Dartmouth College
10. Yale University
11. Brown University
12. Central Connecticut State University
13. Quinnipiac College

II. America Channel - NORTHEAST Region

14. University of Delaware
15. Drexel University
16. Hofstra University
17. Colgate University
18. Bucknell University
19. Lafayette College
20. Lehigh University
21. U.S. Military Academy
22. Fordham University
23. Cornell University
24. Columbia University
25. University of Pennsylvania
26. Princeton University
27. University at Albany
28. Binghamton University
29. Stony Brook University
30. Sacred Heart
31. Fairleigh Dickinson
32. Monmouth
33. Long Island U.
34. St. Francis (NY)
35. Wagner College
36. Duquesne

III. America Channel - MID-ATLANTIC Region

37. George Mason University
38. James Madison University
39. Old Dominion University
40. Virginia Commonwealth University
41. Towson University
42. The College of William and Mary
43. American University
44. U.S. Naval Academy
45. Georgetown University
46. University of Maryland at Baltimore County
47. Mount Saint Mary's

IV. America Channel - MIDWEST Region

139. Illinois State University
140. Indiana State University
141. Missouri State University
142. University of Northern Iowa
143. Southern Illinois University
144. Western Illinois University
145. Youngstown State University
146. Butler University
147. University of Dayton
148. Drake University
149. Morehead State University
150. Valparaiso University
151. Indiana University - Purdue University - Indianapolis (IUPUI)
152. Indiana University - Purdue University - Fort Wayne (IUPUIFW)
153. University of Missouri-Kansas City (UMKC)
154. North Dakota State University
155. Oakland University
156. Oral Roberts University
157. South Dakota State University
158. Cleveland State University
159. University of Detroit Mercy
160. University of Illinois at Chicago
161. Loyola University Chicago
162. University of Wisconsin-Green Bay
163. University of Wisconsin-Milwaukee
164. Wright State University

V. America Channel - MOUNTAIN Region

109. Denver University
110. Eastern Washington University
111. Idaho State University
112. University of Montana
113. Montana State University
114. Northern Arizona University
115. University of Northern Colorado
116. Portland State University
117. Weber State University
118. University of Nevada
119. Boise State University
120. Utah State University
121. Southern Utah University
122. New Mexico State University
123. University of Idaho

VI. America Channel - SOUTH Region

48. Belmont University
49. Campbell University
50. East Tennessee State University
51. *Florida Gulf Coast University*
52. Gardner-Webb University
53. Jacksonville University
54. Kennesaw State University
55. Lipscomb University
56. Mercer College
57. University of North Florida
58. USC Upstate
59. Stetson University
60. Birmingham-Southern College
61. Charleston Southern University
62. Coastal Carolina University
63. High Point University
64. Liberty University
65. Presbyterian College
66. Radford University
67. UNC Asheville
68. Virginia Military Institute
69. Winthrop University
70. Appalachian State University
71. College of Charleston
72. The Citadel
73. University of Tennessee at Chattanooga
74. Davidson College
75. Elon University
76. Furman University
77. Georgia Southern University
78. University of North Carolina at Greensboro
79. Western Carolina University
80. Wofford College
81. University of North Carolina at Wilmington
82. Georgia State University
83. Arkansas State University
84. University of Arkansas-Little Rock (UALR)
85. Louisiana-Lafayette
86. Louisiana-Monroe
87. University of New Orleans
88. University of North Texas
89. Florida Atlantic (FAU)
90. Florida International (FIU)
91. Middle Tennessee
92. South Alabama
93. Troy University
94. Western Kentucky University (WKU)
95. University of Texas – Arlington
96. Stephen F. Austin State University
97. University of Central Arkansas
98. Northwestern State University
99. Southeastern Louisiana University
100. Texas State University
101. University of Texas – San Antonio
102. Texas A&M – Corpus Christi
103. Sam Houston State University

104. Lamar University
105. McNeese State University
106. Nicholls State University
107. Louisiana Tech University
108. Centenary College

VII. America Channel - WEST Region

124. Sacramento State University
125. California Polytechnic State University
126. California State University at Fullerton
127. California State University at Northridge
128. Long Beach State University
129. University of California at Irvine
130. University of California at Riverside
131. University of California at Santa Barbara
132. University of the Pacific
133. University of California at Davis
134. Fresno State University
135. University of Hawaii
136. San Jose State University
137. University of Washington
138. University of San Diego