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October 12, 2007

Via Electronic Filing

Marlene Dortch, Esq.
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

**Re: In the matter of Leased Commercial Access Development of
Competition and Diversity, MB Docket 07-42**

Dear Ms. Dortch:

WealthTV submits this letter as reply comments in the Commission's NPRM in the Matter of Leased Commercial Access Development of Competition and Diversity in Video Programming Distribution and Carriage, MB Docket # 07-42.

Sincerely,

//Signed//

Kathleen Wallman
Advisor to WealthTV



IT'S YOUR LIFE...SPEND IT WELL

October 12, 2007

The Honorable Kevin Martin
The Honorable Michael Copps
The Honorable Jonathan Adelstein
The Honorable Deborah Taylor Tate
The Honorable Robert McDowell
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: In the matter of Leased Commercial Access Development of Competition and Diversity,
MB Docket 07-42

Dear Chairman Martin and Commissioners:

WealthTV is an independent, single channel, lifestyle, entertainment and informational cable programmer, built from the ground up without any affiliation with a cable MSO or broadcaster. We've been bringing our programming service in high definition, twenty-four hours a day, seven days a week, since June of 2004 to viewers across the country. We are currently visible in the homes of subscribers to Verizon FiOS TV, AT&T U-verse TV, Qwest Communications, Charter Communications, and numerous small to mid-size cable companies across the United States, currently totaling over 75 different multichannel video programming distribution partners.

Our distribution partners do not include, however, the nation's largest cable operators because they have consistently refused to work with us to arrive at reasonable carriage arrangements. In some cases, they have refused to negotiate at all.

This is why WealthTV strongly endorses the ideas the Commission has put forth in the Leased Access/Program Access proceeding and in its recent Order acknowledging The America Channel's status as a Regional Sports Network. We write today to applaud the Commission's efforts in this area and to urge swift adoption of the process reforms proposed in the Notice of Proposed Rulemaking and in the Order.

Specifically, we agree that it would be valuable to have an expedited complaint process at the Commission, with clear timelines and deadlines. While we appreciate the availability of the current processes, time is the enemy for a business that wants to grow, and the absence of timelines makes the current process less useful for independent programmers than it could be.

Another element of improvement that would make the process much more useful is additional clarity about what constitutes a prima facie case of discrimination based on affiliation or non-affiliation. It is critical for independent programmers to know exactly what kind of evidence, and how much evidence, they need to present to move forward with a complaint.

We suggest both a micro and a macro approach.

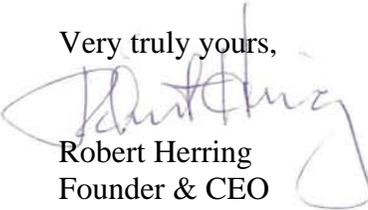
At the micro level, the Commission should determine that there is prima facie evidence of discrimination when there is overt evidence that carriage decisions are tied to affiliation, such as oral or written (e.g., emails) statements of decisional employees of the cable operator. The Commission should also find prima facie evidence of discrimination where carriage has been denied to an independent programmer, but a similar affiliated channel is granted carriage. This is the situation that WealthTV is dealing with currently: Comcast, Time Warner Cable, Cox and Brighthouse all have declined to carry WealthTV, but have found room on their systems nationwide for MOJO – which they jointly own, and which is substantially similar to WealthTV in programming, look and feel, target demographics, and advertisers.

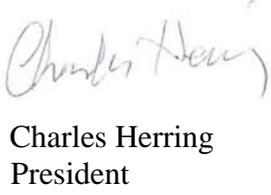
At the macro level, we believe that the Commission should be able to weigh the substantial evidence that has poured into its dockets over the past few years concerning the extent to which independent programmers are excluded from the distribution platforms owned and controlled by the nation's largest cable operators. The numbers tell a disheartening story about how consumers' choices about what they get to see are controlled by the major operators. Thus, where an operator's channel line-up in the majority of its systems demonstrates an exceptionally small percentage of truly independent programming – neither affiliated with the cable industry nor affiliated with the broadcast industry – the Commission ought to find prima facie evidence of discrimination and shift the burden of proof to the cable operator. The Commission should also look dynamically at the choices that the operator has made in recent history – whether new capacity, as it has become available, is devoted to independent programming or otherwise.

In cases where an independent programmer has had its services launched 24/7 for multiple years and has further demonstrated the viability and demand of the channel with numerous distribution partners, as is the case with WealthTV, we believe that an expeditious private arbitration process should be available, and should be mandatory if the complainant invokes it. From a procedural standpoint, we believe that it would be fair for both the independent programmer and the respondent cable operator to share the costs of such an arbitration. The rules of the American Arbitration Association (AAA) should apply, with the proceeding entrusted to a single arbitrator chosen by AAA from its list of qualified candidates.

We deeply appreciate the Commission's attention to and leadership in this area. Viewers who get to see our programming love it, and we would like to make it available everywhere. The nation's largest cable operators are the gatekeepers for millions of Americans who deserve a real choice in what they view. Only decisive steps like the ones the Commission has proposed here can move the cable industry toward exercising real responsibility in its gatekeeper role.

Very truly yours,


Robert Herring
Founder & CEO


Charles Herring
President