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EX PARTE

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

RE: Leased Commercial Access, Development of Competition and Diversity in Video Programming Distribution and Carriage, MB Docket No. 07-42; Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, MB Docket No. 05-255

Dear Ms. Dortch:

Today, Will Johnson and I had a telephone conversation with Amy Blankenship, Legal Advisor to Commissioner Tate, to discuss our positions in the above-referenced proceedings.

Regarding leased access, we stated that the Commission's and Congress's goals of encouraging the carriage of independent programming would be better served by continuing the Commission's efforts to promote wireline competition in the video market rather than modifying the current leased access rules to further lower rates. Competition in the marketplace will ensure that consumers can view the programming they desire and that independent programmers will be able to obtain carriage of their programming. In this regard, we noted that Verizon already carries numerous independent programmers, such as The America Channel, the NFL Network and the Hallmark Channel, and Verizon has every incentive to meet consumers' demand for offering such programming in order to differentiate itself from its competitors. We also noted that while Verizon has carriage agreements with these independent programmers, the leased access requests that it has received to date relate to infomercials and home shopping networks, rather than these types of independent programmers. In fact, some of these programmers have admitted that leased access is not a viable business model for them.

Concerning new entrants, such as Verizon, we explained that the leased access rules were not designed with these parties in mind, and urged the Commission to reject any rules that would discourage competitive entry into the video market and continued technological innovation or that would undermine the FCC's broader goals of video competition and broadband deployment. Specifically, we explained how the current leased access rules and the proposed modifications are disproportionately harmful to new entrants. The FCC should recognize that effective wireline competition obviates the need for the FCC to regulate leased access rates, or, at least, should remove leased access rate regulation from competitive providers. More generally, the

Commission must ensure that any changes to its leased access rules do not disadvantage new entrants or providers deploying more efficient and advanced video networks.

With respect to the programming carriage complaint process, we asked the Commission to refrain from modifying its current procedures. There is no evidence that the process in place today is not adequate to resolve the limited disputes that have arisen or may arise in the future. Further, we oppose mandatory arbitration as a means for resolving program carriage and leased access disputes.

Finally, regarding Section 612(g)'s "70/70 test," we reiterated that whether or not that threshold has been met, the Commission should continue to pursue policies that encourage video competition and should not burden new entrants with regulatory obligations that undermine video competition and broadband investment.

Sincerely,

cc: Amy Blankenship