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March 28, 2008

**EX PARTE**

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

Re: Carriage of Digital Television Broadcast Signals; Docket No. 98-120

Dear Ms. Dortch:

On March 27, 2008, Daniel Brenner, Lisa Schoenthaler and Diane Burstein (National Cable & Telecommunications Association), Ross Lieberman (American Cable Association) and Megan Delany (Charter Communications) met with the following staff from the Federal Communications Commission's Media Bureau: Monica Desai, Eloise Gore, Mary Beth Murphy, and Lyle Elder. During our meeting, consistent with the written comments of NCTA, ACA and Charter in this proceeding, we discussed the need for a small system exemption from the FCC's dual carriage requirement. Specifically, the cable representatives urged the FCC to act expeditiously to provide an exemption for systems with 552 MHz or less capacity or 5,000 or fewer customers from the requirement to carry digital signals in addition to analog versions of those digital signals.

Cable representatives explained that the scope of the proposed exemption was narrow. Exempt small systems would continue to provide analog versions of those digital signals (per the Commission's interpretation of the "viewability" requirement) so that after February 17, 2009, cable customers would continue to be able to view a must-carry broadcaster's digital signal in analog. However, cable representatives urged the Commission to exempt those small systems from any requirement to *also* provide a digital signal under the FCC's interpretation of the "no material degradation" provisions of Section 614.

Requiring small cable systems to carry a digital signal on top of the analog version would consume additional capacity (a minimum of an additional 3 MHz for each HD signal on top of the 6 MHz already devoted to carriage of the analog version) on systems that already are capacity constrained. And, we explained, a requirement to carry a digital signal in digital would impose significant costs in addition to those that small operators already will incur simply to receive and downconvert a digital signal to analog.

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We also explained that the possibility of filing for a waiver is no substitute for a categorical exemption. Waivers will impose unnecessary burdens on small systems and FCC resources, will result in waiver requests being filed for hundreds and hundreds of small systems, and will fail to provide needed clarity on an expedited basis.

Respectfully submitted,

**/s/ Daniel L. Brenner**

Daniel L. Brenner

cc: Monica Desai  
Eloise Gore  
Mary Beth Murphy  
Lyle Elder