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July 31, 2008

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

**Re: Notice of *Ex Parte* Presentation
CSR-7902-Z
CS Docket No. 97-80**

Dear Ms. Dortch:

On July 31, 2008, Tom Might, President and Chief Executive Officer, Cable One, Inc. ("Cable ONE"), Patrick Butler, Senior Vice President, The Washington Post Company, and the undersigned met with Commissioner Jonathan S. Adelstein and Ramesh Nagarajan, and Commissioner Michael J. Copps and Rick C. Chessen. They discussed matters related to the comments filed by Cable ONE on June 16, 2008 in support of the above-referenced waiver request submitted by Evolution Broadband, LLC, and as summarized on the attached.

Very truly yours,

A handwritten signature in blue ink that reads "Arthur H. Harding".

Arthur H. Harding
Counsel for Cable One, Inc.

cc: Commissioner Jonathan S. Adelstein
Commissioner Michael J. Copps
Rick C. Chessen
Ramesh Nagarajan

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**AN HISTORIC
OPPORTUNITY
FOR HDTV**

Cable ONE

July 2008

CABLE ONE

- Small MSO with only 700,000 subscribers
 - Less than 1% of the MVPD subscriber base
- Focus on smaller, mostly rural markets
 - Average franchise community of 2,000 subscribers
 - Average system size of 17,000 subscribers
- Full-service competitive provider to smaller markets
 - 99% availability of high-speed internet
 - 93% availability of cable phone service
- Extraordinary customer satisfaction
 - Same day service guaranteed
 - Video price freezes in 2003, 2005 and 2007

PUBLIC INTEREST IS SHIFTING

- The 1992 Cable Act was written for an analog-only TV world. There was no digital cable, no satellite TV, no IPTV, not even the Internet.
- The subsequent 15 years of FCC rulemaking carefully interpreted the law to suit the public interest during a long era of hybrid technology - basic analog services with advanced digital services.
- As the nation transitions to an all-digital HDTV future, the public interest is shifting again and FCC policy on settops should lead the way.

THE EMERGING PUBLIC INTEREST

- We believe the emerging public interest to be:
 - The maximum deployment of HDTV
 - At the lowest price
 - To the greatest number of consumers
 - At the earliest possible date
- Unfortunately, certain outdated hybrid era rules serve to indirectly, but emphatically, block this result as cable migrates to All-Digital.
- The FCC has an historic opportunity, and the requisite authority, to maximize consumer access to HDTV in this country.

HD IS NO LONGER “ADVANCED”

- Characterizing HD functionality as advanced and limiting “low cost, limited functionality” waivers to non-HD boxes may have been appropriate when the 2005 Deferral Order was written. There were only 20 HD networks; there were very few HDTVs in homes; and HD settop technology was rather exotic and expensive.
- Today, however, virtually every network is available in HD, virtually every new TV purchased is HD-capable, and a simple HD settop does not have to be expensive.
- In light of this evolution, ensuring a successful HD deployment is the most important TV transition since the advent of color TV.

AFFORDABLE HD FOR CONSUMERS

- The least expensive HD-capable settop available from Motorola costs \$300.
- So even when companies like Cable ONE offer HD programming for free to anyone receiving the analog version, HD is not an affordable option for many subscribers due to the cost of the settop box.
- Evolution Systems and other CE companies can make an HD-capable device with a wholesale cost of as little as \$50 by 2009. We could lease this box to subscribers for as little as \$2/month.
- Enabling cable operators to offer customers affordable access to HD content serves the public interest.

VIEWERS DEMAND MORE HD

- In 2002 and in the public interest, the FCC wisely required that all new TVs include a digital tuner by 2007, even though only 13% of those over-the-air tuners would ever be used to receive HD programming.
- In contrast, hybrid era regulations prevent HD tuners from being included in affordable cable settops, which is how the vast majority of TV viewing will be done in the decade ahead, with cable settops and not over-the-air.
- Encouraging or requiring HD tuners in all new digital cable settops would be in the emerging public interest.

DCT700 WAIVERS

- The Commission has granted waivers for certain integrated boxes, such as the Motorola DCT700, to systems committing to go All-Digital by February 17, 2009.
- Cable ONE did not purchase Motorola DCT700 settops, nor have we asked for a waiver to allow such purchases in the future, because the DCT700 does not process HD signals.
- Encouraging cable operators to deploy non-HD settops, just as the consumer's interest in HDTV is exploding, is not in the public interest going forward.

RECLAIMING ANALOG WITHOUT HD

- Starting this year, without HD-enabled low-function settop waivers, the cable industry will buy 75-125 million inexpensive non-HD Digital-To-Analog (DTA) devices to reclaim cable's analog spectrum.
- These DTAs deliberately omit HD and conditional access to fall outside the settop integration ban.
- For very little additional cost, these 75-125 million cable TV outlets could/would/should have been HDTV-ready outlets.
- By allowing a massive quantity of new non-HD devices to be deployed, the FCC would be missing a golden opportunity to facilitate viewers' ability to receive HD programming.

RECOMMENDATION #1:

Grant Blanket Waiver For Low-Cost, Limited Functionality HD Settops Under 2005 Deferral Order

- The FCC should act decisively to grant waivers for low cost, limited functionality HD-capable settops in order to promote the public interest in:
 - the maximum possible deployment of HD
 - at the lowest price
 - to the greatest number of consumers
 - at the earliest possible date
- A simple update of the FCC's low cost, low function waiver standard can accomplish this without upsetting the progress made on the commercial availability of high-function equipment.
- The logic is compelling, the facts are real, and the decision would be an historic leap forward for HDTV.

LOW-FUNCTION HD SETTOP

- The low function HD All-Digital Device (ADD) that the FCC should encourage would:
 - Not be two-way or have broadband access;
 - Not contain an EPG, DVR or multiple tuner;
 - Not do VOD or SDV.
- It would be comparable in price and size to the government subsidized broadcast DTV over-the-air device.
- The Evolution HD settop proposed by Cable ONE uses open standards and can be made by any CE manufacturer or built-in to any device.
- Will not endanger the competitive marketplace for CE devices because cable operators will still have to support CableCARDS for both retail CE devices and high-end settops leased to subscribers by the operator. Such higher end functions will still be in great demand.

GOALS OF 2005 DEFERRAL ORDER

- The proposed waiver is entirely consistent with the goals of the 2005 Deferral Order.
 - Assists the cable industry's migration to All-Digital networks.
 - Frees up spectrum to provide additional services to consumers, including high-definition television.
- Of the “taboo” functions identified in the 2005 Deferral Order, only one has absolutely no possible negative impact on the retail market for CE devices.
 - Integrated settops that include PVR capability, or that provide VOD using two-way capability, could harm the retail market for PVR devices such as TIVO.
 - Integrated settops that include multiple tuners could harm the retail market for multiple tuner TV sets, *e.g.*, that offer picture-in-picture.
 - Integrated settops that offer broadband Internet access could harm the retail market for cable modems.
 - But integrated settops that allow HD cable services to be displayed in HD on HD sets cannot possibly harm the retail market for HD sets, but rather will provide consumers with greater incentives to purchase such sets.

RURAL DIGITAL DIVIDE RISK

- Allowing deployment of a low cost, low function HD-capable device will also address a second important public interest – the rural digital divide.
- Smaller and more rural cable systems have less bandwidth (channel capacity) than urban systems.

NOMINAL BANDWIDTH	6 MHz CHANNELS
450 MHz	65
550 MHz	82
750 MHz	115
860 MHz	133
1 GHz	157

Rural Cable Systems

Urban Cable Systems

- 60% of Cable ONE's customers are served by only 550 MHz.

ALL-DIGITAL BRIDGES THE DIVIDE

- The rapidly growing consumer demand for HD video networks and faster high speed internet pipes has exhausted our more limited channel capacity.
- Without an economical solution to this problem in the near future rural cable customers, like ours, will start to have far fewer HD networks and far slower internet speeds than their urban cable counterparts.
- Converting our hybrid analog-digital plants to All-Digital HD plants can convincingly solve this pending new form of rural digital divide.

55 <u>analog</u> channels @ 6 MHz = 330.0 MHz	Savings = 302.5 MHz
55 <u>digital</u> channels @ 0.5 MHz = 27.5 MHz	

A LOW COST HD DEVICE IS KEY

- However, the economics only work for Cable ONE and its customers if a low-cost, low-function HD device is allowed by the FCC, because Cable ONE needs 1.7 million such devices.

700,000	Cable ONE video homes
x 3	Average TVs per home
2,100,000	Total TVs connected to Cable ONE Plant
-400,000	Digital set-tops already deployed
1,700,000	TVs requiring a digital device to enable All-Digital

- At \$300 per HD settop, the total cost would be \$495 million versus only \$85 million at \$50 per HD ADD.

RECOMMENDATION #2:

Limit Lost-Cost, Limited Functionality HD Settop Waivers To Smaller Operators

- If, for some reason, recommendation #1 cannot be implemented in the near future for all cable systems, then it should be adopted for all smaller, mostly rural cable systems with limited bandwidth. We suggest low cost, limited function HD boxes be permitted for systems:
 - That have less than 750 MHz bandwidth;

AND

 - That are operated by companies with fewer than 1,000,000 subscribers (1% of MVPD universe).
- If necessary, this small-rural exemption could also be limited to systems committing to go All-Digital. We suggest:
 - A 12-month time frame from the date of the waiver grant.
 - On a system-by-system basis.
- To enhance consumer benefits, waiver recipients could be required to lease these boxes for \$2 or less per month, and should be encouraged to provide them for free.

SATISFYING CONSUMER EXPECTATIONS

- Without a low cost, limited functionality HD settop, there simply is no affordable option for millions of cable customers to view HD programming on their HD sets.
- As Chairman Martin stated just last year:
 - “ If consumers buy a new expensive HDTV, they reasonably expect to get high-definition signals.”
- Cable ONE shares this view and urges the Commission to take the reasonable and modest steps we have outlined to help bring this vision to fruition.