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VIA ELECTRONIC FILING

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

**Re: Herring Broadcasting, Inc. d/b/a WealthTV v. Time Warner Cable Inc.  
MB Docket No. 08-214  
File No. CSR-7709-P**

Dear Ms. Dortch:

Time Warner Cable Inc. (“TWC”) hereby responds to the opportunity presented by paragraph 123 of the Hearing Designation Order (“HDO”) in this proceeding to pursue non-binding Alternative Dispute Resolution (“ADR”). TWC is disappointed by the immediate rejection of ADR by Herring Broadcasting, Inc. d/b/a WealthTV (“WTV”). TWC believes that WTV’s hasty rejection of this approach further demonstrates that WTV is not interested in pursuing carriage arrangements that reflect mutually acceptable marketplace terms and conditions, but rather reflects WTV’s understanding that its untested and unproven programming concepts must rely on carriage by government mandate and under artificial terms and conditions, a proposition that TWC is convinced never was intended by Congress and ultimately would be rejected by the courts.

In addition to exploring a potential overall resolution of the WTV carriage dispute through ADR, TWC also believes that ADR could help streamline the upcoming hearing process, *e.g.*, through possible stipulations of fact, resolution of discovery matters, protections of confidentiality, etc. In light of WTV’s rejection of ADR, this option may be moot. Nevertheless, should WTV change its position, TWC remains willing to consider the appropriate use of ADR as this proceeding progresses.

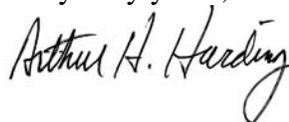
As to WTV’s request that parties be “directed” to preserve all materials that may be discoverable in the proceedings before the Administrative Law Judge (“ALJ”), that is a matter that can now only be raised directly with the ALJ. Nevertheless, TWC has preserved such materials in the normal course of matters subject to pending litigation, and we presume that WTV has done likewise.

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TWC notes WTV's claim that WTV's four separate complaints may present certain common facts and issues, and that complete consolidation of all four cases would not be appropriate given that WTV's course of dealings with each cable operator was different. TWC supports exploration of procedures that promote judicial economy and preserve due process. Decisions as to what issues in these four cases, if any, might be addressed on a consolidated basis are best left to the sound discretion of the ALJ, and TWC looks forward to exploring such matters in a prehearing conference at the earliest possible date.

Finally, as to WTV's novel request that TWC be "directed not to fill MOJO's channel position until resolution of these proceedings," TWC notes that not only would such a directive be an unconstitutional prior restraint, WTV's request is in the nature of an unauthorized petition for reconsideration of the Bureau's HDO, and thus may not be entertained. *See* 47 C.F.R. §§ 1.106(a)(1) and 76.10.

Very truly yours,



Arthur H. Harding  
*Counsel for Time Warner Cable Inc.*

cc: Monica Desai, Esq.  
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