



## Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

PAUL HUDSON  
DIRECT (202) 973-4275  
paulhudson@dwt.com

SUITE 200  
1919 PENNSYLVANIA AVE NW  
WASHINGTON, DC 20006

TEL (202) 973-4200  
FAX (202) 973-4499  
www.dwt.com

January 29, 2009

Marlene H. Dortch  
Secretary, Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, DC 20554

Re: *James Cable LLC Request for Waiver, CSR-7216-Z*

Dear Ms. Dortch:

On January 28, 2009, Paul Hudson of Davis Wright Tremaine, LLP, as counsel for James Cable, LLC, spoke to Brendan Murray of the Media Bureau regarding James Cable's pending request for an extension of its existing waiver from the integration ban. The substance of that conversation is described below.

Some parties in other related proceedings have recently suggested that there would be "no consumer benefit" to extending the date of existing low-cost integration ban waivers to a date beyond the DTV transition. That assertion is plainly not supported by the record in James Cable's case. Because of its severely restrained capital resources, James Cable still does not offer broadband Internet access, DVRs or digital cable in some of its markets, and does not offer HD service to approximately half of its customer base. It hopes to offer telephone service, expand broadband availability and make other significant strides in 2009, but many of these investments would necessarily be delayed if the Commission now required James Cable to devote even more resources to purchasing "low-end" CableCARD set-top boxes, on top of the significant cost increases it has already suffered to purchase HD and DVR CableCARD devices. Thus, relief that would enable James Cable to invest in new consumer services would offer significant consumer benefits. Indeed, those benefits are exactly the reason why the Bureau previously granted a waiver to James Cable.

In addition, the Commission should take into consideration the significant deterioration in the national economy that has occurred since James Cable's initial waiver was granted in July 2007. The present climate makes it now even far more difficult for James Cable to raise additional capital, or to impose increased set-top rental prices on its customers to cover the huge increase in acquisition costs.

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
January 29, 2009  
Page 2

Finally, to the extent necessary, James Cable would be pleased to submit updated audited financial statements as they become available in order to demonstrate ongoing satisfaction with the standards for establishing financial distress. James Cable accepts that it would make sense for its waiver to expire if and when the public interest reasons underlying its grant are no longer present. James Cable hopes the Commission will similarly agree that it also makes sense for the waiver to continue for as long as those public interest criteria set forth in the initial Waiver Order remain – which the record shows they do.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "PBH", written in a cursive style.

Paul B. Hudson  
Counsel for James Cable, LLC