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April 9, 2009

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 Twelfth St., SW  
Washington, DC 20554

Re: Notice of ex parte presentation in: MB Docket No. 97-80

Dear Ms. Dortch:

On April 9, 2009, Robert Schwartz, Constantine Cannon LLP, counsel to CEA and the undersigned met with Nancy Murphy, Associate Chief, Media Bureau; Mary Beth Murphy, Chief, Policy Division, Media Bureau; Steve Broekaert, Senior Deputy Chief, Policy Division; Brendan Murray, Attorney-Advisor, Policy Division, Media Bureau; and Alison Neplokh, Senior Engineer, Engineering Division, Media Bureau. We discussed the points made in CEA's Application for Review of February 17, 2009 and CEA's Reply Comments of March 16, 2009. We urged that the Commission should not attempt to set policy piecemeal, without adequate public comment, via grants and deployment orders on applications for waivers and extensions of waivers, or solely via enforcement actions. Rather, the Commission should initiate a rulemaking pursuant to the Commission's expectation, as expressed in its March 17, 2005 Extension Order in Docket 97-80, that the cable industry or its members will develop and support a nationwide standard for a downloadable conditional access system with the same comprehensive national portability attributes as the CableCARD.

Additionally, we said that the Commission should make clear that those who deploy any conditional access system other than a CableCARD, either pursuant to a waiver or waiver extension, or without seeking any waiver, should be considered on notice that they are at risk of having such system found not to be in compliance with Commission regulations and may be subject to an enforcement action.

Respectfully submitted,

*/s/ James W. Hedlund*

James W. Hedlund  
Vice President, Regulatory Affairs

cc: Nancy Murphy  
Mary Beth Murphy  
Steve Broekaert  
Brendan Murray  
Alison Neplokh