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Federal Communications Commission
Office of the Secretary

EX PARTE NOTICE

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

Re: *In the Matter of Cable One, Inc., Request for Waiver of Section 76.1204(a)(1)*, CSR-8080-Z, CS Docket No. 97-80; NBP Public Notice #27, GN Docket Nos. 09-47, 09-51, 09-137

Dear Ms. Dortch:

On February 24, 2010, representatives of Cable One, Inc. ("Cable One") – specifically, Tom Might, President and CEO of Cable One; Patrick Butler, Senior Vice President of the Washington Post Company (retired); and the undersigned – met separately with Media Bureau staff and members of the Commission's broadband team to discuss issues relating to the set-top box waiver (the "*Order*") granted by the Commission to permit Cable One to deploy limited functionality high-definition devices ("HD-ADDs") in its Dyersburg, Tennessee system as it transitions the system to an all-digital platform.

During the Media Bureau meeting, which was attended by staff members William Lake, Nancy Murphy, Mary Beth Murphy, Steven Broeckaert, and Brendan Murray (who participated by telephone), Cable One provided a status report on its progress with respect to transition of the system pursuant to the extension request it filed in November 2009.

As outlined in that request, a brief extension of time was necessary for Cable One to adjust to certain unexpected, pro-consumer marketplace developments that emerged as a result of the *Order*. In particular, Cable One received strong interest from a number of vendors desiring to produce an HD-ADD prototype that have not yet entered the U.S. marketplace. This unforeseen development allowed Cable One to choose from a field of 16 bidding companies rather than from the much smaller field of competitors in the United States alone, where the navigation devices market is dominated primarily by two manufacturers. Cable One now anticipates that prototypes of its HD-ADDs will be available in the third quarter of this year, and that deployment can begin late in the fourth quarter.

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While Cable One has selected its vendors for the project, unfortunately, the initial 20,000-box order required for Dyersburg is too small to meet the $50 price point necessary to offer such devices to consumers for $0-1 per box as promised in Cable One's original waiver request. Cable One would like to expand the waiver to at least 200,000 HD-ADDs to meet vendor requirements and achieve the economies of scale essential to provide a low-cost set-top option for its customers.

The expanded waiver would allow Cable One to test HD-ADDs in at least eight additional systems with approximately 70,000 total subscribers (representing about 10% of Cable One's subscriber base). The larger sample base would produce more definitive results that deployment of HD-ADDs will not negatively impact the competitive market for navigation devices.

To the contrary, deployment of HD-ADDs in Dyersburg and other systems would produce new competition to the U.S. set-top box market, and would mean that additional Cable One customers would benefit from the reduced costs of high-definition ("HD") equipment, which would drop from $12 to no more than $1 per television set. Other benefits of the waiver include faster internet speeds and increased programming options for consumers. For example, in Dyersburg, the transition will free up about 80% of the system's channel capacity for new HD networks and permit introduction of DOCSIS 3.0, which will result in improved 50-100 Mb Internet speeds.

Ideally, Cable One would eventually like to use the HD-ADD company-wide to bring such benefits to all our customers. Cable One would be willing to commit to the launch of DOCSIS 3.0 in all systems where we are allowed to deploy HD-ADDs, thereby facilitating substantial increases in Internet speeds. Nonetheless, should we be unable to deploy HD-ADDs on an expanded basis due to regulatory impediments, we stand by our commitments in Dyersburg, where consumers will benefit from increased HD programming offerings at no additional cost, and where they will be able to obtain affordable set-top boxes required to view such programming (i.e., free for the first device, with additional devices available for only $1).

During the broadband team meeting, which was attended by staff members Carlos Kirjner, Peter Bowen, Phil Bellaria and Elvis Stumbergs, Cable One explained the consumer benefits associated with its Dyersburg waiver and how obtaining authority to deploy HD-ADDs in additional systems will promote competition in the navigation devices marketplace.

As explained above, Cable One has found that the set-top box field is extremely competitive outside the U.S. Thus, deploying HD-ADDs in Dyersburg and other systems will permit introduction in the U.S. of new vendors that currently do not have a strong presence here and potentially create a retail market for such devices where none previously existed. The relief requested by Cable One also will pave the way for other multichannel video programming distributors ("MVPDs") to have greater choice in devices they can deploy on their networks, and will lead to lower set-top box prices for video programming providers and consumers alike.

Suggestions made by some commenters in the broadband plan proceeding that the FCC should formulate a one-size-fits all, "network agnostic" set-top box technology standard or freeze set-top box waivers while considering such action would have a chilling effect on plans by small and mid-sized cable operators preparing to go all digital. As a general matter, forcing MVPDs to reinvent their platforms to meet such a mandate would impede progress and innovation; would be extremely difficult, costly and time consuming to implement; and would raise costs and hinder MVPDs' ability to offer advanced services to consumers.

Such an environment of regulatory uncertainty would force Cable One to exercise extreme caution in moving forward with any plans to upgrade its systems and improve services, which would be detrimental to consumers. Cable One strongly urges the Commission to reject such proposals, as they would be anti-consumer in effect. To the extent the Commission determines that regulatory intervention is necessary, however, Cable One would urge that the Commission focus on the best ways to foster continued innovation without interfering with existing business models that have been devised based on the current regime (e.g., by focusing any new obligations on high-end two-way boxes while fostering low-cost, limited functionality solutions) and/or consider providing relief for small and mid-sized cable operators from any existing requirements that are hindering growth and robust competition in the marketplace.

Please feel free to contact me with any questions regarding this letter.

Respectfully submitted,

Arthur H. Harding

Arthur H. Harding
Counsel for Cable One, Inc.

cc: William Lake (via e-mail)
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