

April 5, 2010

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

RE: Notice of *Ex Parte* presentation in: CS Dkt. No. 97-80; CSR-7902-Z

Dear Ms. Dortch:

On April 5, 2010, John Bergmayer of Public Knowledge attended a meeting with Nancy Murphy, Alison Neplokh, Mary Beth Murphy, Brendan Murray, and Steven Broecker of the Media Bureau.

At the meeting, James Gee, Tony Austin, and Rod Harrison of IPCO LLC, and their attorney, James E. Meyers, supported Public Knowledge's *Petition for Reconsideration* of the Memorandum Opinion and Order granting a waiver of 47 C.F.R. § 76.1204(a)(1) to Evolution Broadband, CSR-7902-Z, CS Dkt. No. 97-80 (June 29, 2009). Public Knowledge was invited to attend by IPCO to hear its presentation. In general, IPCO spoke of the difficulties caused by waivers of the Commission's rules, particularly to manufacturers of low-cost set-top boxes that do not require a waiver. IPCO will be filing its own *ex parte* notice, but Public Knowledge files separately because it made a few points relating to CableCARD, video gateways, and related matters.

First, some low-cost devices that may be compliant with the Commission's rules face difficulties when there is only one path to certification (e.g. CableLabs). Ideally, in future proceedings, the Commission will establish a standards-based process with lower barriers to entry. Second, regulatory uncertainty causes business disruptions, and waivers can prevent creators of compliant devices from achieving the economies of scale needed to bring costs down. Third, Public Knowledge indicated that it agrees that shortcomings in the CableCARD regime should be corrected even as the Commission gathers the information it needs in the upcoming video network gateway NOI.

Sincerely,

_____/s/
John Bergmayer
Staff Attorney
Public Knowledge

CC: Nancy Murphy
Alison Neplokh
Mary Beth Murphy
Brendan Murray
Steven Broeckaert
Rosemary Harold
Joshua Cinelli
Brad Gillan
Rick Kaplan