



A Professional Limited Liability Company

1333 New Hampshire Ave., NW, Fl 2
Washington, DC 20036
Telephone: (202) 872-6811
Facsimile: (202) 683-6791

Chicago Office
307 North Michigan Ave., Suite 1020
Chicago, Illinois 60601
Telephone: (312) 372-3930
Facsimile: (312) 372-3939

Barbara S. Esbin
Admitted in the District of Columbia

April 14, 2011

Via ECFS

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Presentation of American Cable Association (“ACA”); *In the Matter of Amendment of the Commission’s Rules Related to Retransmission Consent*, MB Docket No. 10-71; *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 07-269; *In the Matter of Implementation of Amendment of Parts 73 and 76 of the Commission’s Rules Relating to Program Exclusivity in the Cable and Broadcast Industries*, GEN Docket No. 87-24.

Dear Ms. Dortch:

On April 13, 2011, the following individuals met with Commissioner Michael Copps and his Media Advisor, Joshua Cinelli:

- James Mitchell, President, Armstrong Telephone Company;
- Patrick Deville, Executive Vice President and Chief Operating Officer, Buckeye CableSystem;
- Elaine Partridge, Director of Programming, NewWave Communications;
- Jim Penney, Executive Vice President, Wave Broadband;
- Melanie McMullen, Vice President & Counsel, National Cable Television Cooperative; and
- Chris Cinnamon, Jeremy Kissel, and the undersigned, Cinnamon Mueller, Counsel to ACA.

The four small cable operators are individual members of ACA, each with many years of direct experience negotiating retransmission consent agreements with broadcast television stations under the current regulatory framework. The National Cable Television Cooperative (NCTC) is a not-for-profit corporation that operates as a programming and hardware purchasing organization for ACA members and other small and rural cable operators.

During the meeting, participants commended the Commission for taking action to investigate and propose changes to its retransmission consent regulations, and urged it to move forward expeditiously with the pending Notice of Proposed Rulemaking. Participants discussed

significant problems with the current retransmission consent process and how those problems will continue to harm consumers without substantial reforms. The group raised concerns about the following common practices: joint negotiations on behalf of separately owned broadcast stations; third-party interference by networks and local stations in the negotiations of rural cable operators who seek retransmission consent from adjacent market stations that historically have been available to their customer base; and pricing discrimination that leaves smaller operators who lack bargaining leverage paying dramatically higher prices for the same broadcast signals than larger operators.

Participants gave specific examples of each of these harmful retransmission consent negotiating practices and noted that ACA has previously raised concerns about the deleterious effect of separately owned stations engaging in joint retransmission consent negotiations and price discrimination with the Commission.¹ They indicated that ACA would be submitting comments on these and other matters addressed in the NPRM and providing the Commission with specific proposals aimed at improving the negotiating process and remedying consumer harms.

If you have any questions, or require further information, please do not hesitate to contact me directly. Pursuant to section 1.1206 of the Commission's rules, this letter is being filed electronically with the Commission.

Sincerely,


Barbara S. Esbin

cc (via email): Commissioner Michael Copps
Joshua Cinelli
James Mitchell
Patrick Deville
Elaine Partridge
Jim Penney
Melanie McMullen
Chris Cinnamon
Jeremy Kissel

¹ See, e.g., *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 07-269, ACA Comments (filed July 29, 2009); *In the Matter of Amendment of the Commission's Rules Related to Retransmission Consent*, MB Docket No. 10-71, ACA Comments (filed May 18, 2010); *In the Matter of Amendment of the Commission's Rules Related to Retransmission Consent*, MB Docket No. 10-71, ACA Notice of Ex Parte Presentation (filed Feb. 16, 2011); *In the Matter of Amendment of the Commission's Rules Related to Retransmission Consent*, MB Docket No. 10-71, ACA Notice of Ex Parte Presentation (filed Feb. 23, 2011).