MINTZ LEVIN

Howard J. Symons | (202) 434-7305 | hjsymons@mintz.com

701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-434-7300
202-434-7400 fax
www.mintz.com

September 26, 2011

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation

WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45; WC Docket No. 03-109

Dear Ms. Dortch:

On September 22, 2011, Catherine Bohigian and Elana Shapochnikov of Cablevision Systems Corp. ("Cablevision), Sam Feder of Jenner & Block, and the undersigned, on behalf of Cablevision, met with Carol Mattey, Amy Bender, Brad Gillen, Katie King, Patrick Halley, and Joseph Cavender of the Wireline Competition Bureau to discuss several issues related to reform of the Universal Service Fund ("USF") in the above-captioned dockets. On September 23, 2011, Ms. Bohigian, Ms. Shapochnikov, Mr. Feder, and the undersigned also met with Angela Kronenberg, Wireline Legal Advisor to Commissioner Clyburn; Margaret McCarthy, Policy Advisor, Wireline, to Commissioner Copps; and Christine Kurth, Policy Director & Wireline Counsel to Commissioner McDowell; and on September 26, 2011, with Zac Katz, Chief Counsel and Senior Legal Advisor to Chairman Genachowski, and Rebekah Goodheart and Marcus Maher of the Wireline Competition Bureau, regarding certain USF and intercarrier compensation ("ICC") issues raised in these dockets.

With respect to USF, we noted that Cablevision has brought the benefits of choice and innovation to millions of consumers in its Eastern footprint and is also an emerging competitor in its Western footprint. In the Western states, Cablevision competes against incumbents that receive millions of dollars annually in federal USF subsidies. The Cablevision participants made several specific suggestions for restructuring USF to reflect the emergence of competition and to promote consumer choice in rural areas that do not yet enjoy it.

First, we proposed eliminating ILEC subsidy in areas where an unsubsidized provider currently provides service or enters the area at any time after initiation of the broadband support fund. We noted that the December 31, 2011, cutoff for eliminating subsidies in competitive areas proposed in the ABC Plan would effectively lock-in a subsidy for any area that lacks a competing broadband provider today and would unnecessarily deter competition and new entry.

In contrast to the ABC Plan, a rule eliminating subsidies in markets where competitors will encourage new entry is made more difficult by the economic challenge of competing against a subsidized incumbent. We recognized that it may be appropriate to adopt a phase-out of ILEC subsidies in areas where competitors enter after 2011, but any such phase-out should be the shortest possible to provide a reasonable time to adjust. We also noted that the Commission is already considering a cost model for identifying high-cost areas and this model could be used or expanded to include the allocation costs between competitive and non-competitive portions of an incumbent's service territory in order to eliminate subsidies associated with the areas where an unsubsidized provider enters after 2011.

Second, Cablevision proposed that the forward-looking cost model proposed to identify high-cost areas and the level of support should be based on the most efficient available terrestrial technology rather than on the incumbents' costs. This will encourage all providers in an area to strive to be as efficient as possible.

Finally, in persistently high-cost areas where USF subsidies will remain necessary, we suggested that the Commission mandate portable subsidies that can be used with either the ILEC or a new entrant. This approach could also be used if the Commission decides to adopt a hard date after which competitive entry in an area will not cause the elimination of USF support for the incumbent carrier. A portable subsidy offers the ability for competitors to enter even high-cost markets where unsubsidized entry is economically challenging.

Regarding ICC reform, we emphasized that VoIP and circuit-switched traffic should be treated the same for intercarrier compensation purposes, including during any transition period. We also pointed out that there is no reliable way to verify whether any given call exchanged in TDM format has used VoIP technology at any point in the call path, requiring the Commission and multiple stakeholders to expend considerable resources on this issue for a relatively short period of time, and creating new opportunities for gaming and arbitrage. Moreover, we noted, a rate disparity, such as that proposed by the ABC Framework, would penalize carriers that have made investments to modernize their networks to IP by depriving them of revenues available to their circuit-switched competitors.

If the Commission is nevertheless going to adopt the ILEC proposal that originating carriers pay lower terminating rates for traffic originated or terminated in VoIP during the ICC transition, we proposed that it should condition the availability of the lower rate on the originating carrier's making IP interconnection available to requesting providers. We explained that conditioning the availability of lower terminating rates would provide some incentive for ILECs to upgrade their interconnection facilities and advance the Commission's goal of transitioning to an all-IP network. We emphasized that adopting a requirement that ILECs offer IP interconnection would not justify a VoIP-TDM rate disparity, even on an interim basis, for the reasons noted above.

Pursuant to section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed electronically with the Office of the Secretary and served electronically on the Commission participants in the meetings.

Should there be any questions regarding these matters, please contact the undersigned.

Sincerely,

Howard J. Symons

cc: Carol Mattey
Amy Bender
Brad Gillen
Katie King
Patrick Halley
Joseph Cavender
Angela Kronenberg
Margaret McCarthy
Christine Kurth
Zac Katz
Rebekah Goodheart
Marcus Maher