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Barbara S. Esbin
Admitted in the District of Columbia

March 21, 2012

Via ECFS

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

Re: American Cable Association Notice of Ex Parte Communications; *In the Matter of Review of the Emergency Alert System; Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief, Randy Gehman Petition for Rulemaking, EB Docket No. 04-296*

Dear Ms. Dortch:

On March 20, 2012, Ross Lieberman, Vice President of Government Affairs, American Cable Association (“ACA”) and the undersigned, counsel to ACA, met with Lisa Fowlkes, Gregory Cooke, and Tom Beers, Public Safety and Homeland Security Bureau, to discuss the EAS CAP compliance requirements in the recently adopted *Fifth Report and Order* in the above-captioned proceeding.¹ Specifically, ACA discussed the significant burden that smaller cable systems that lack broadband Internet access today because connections are physically unavailable would bear to obtain a waiver every six months using the Commission’s standard waiver process², and how these operators would be greatly benefitted by obtaining waivers of a longer duration through a streamlined waiver process. ACA noted that the Commission has established streamlined waiver processes in other rulemakings in which company officers would simply certify that they meet the qualifications for a waiver through submission by letter to the appropriate Bureau or by online filing in the rulemaking docket, and such waivers would either be deemed automatically approved or would be processed on an expedited basis.³ Participants discussed ways in which the *Fifth Report and Order’s* presumption that lack of

¹ *Review of the Emergency Alert System*, 2012 LEXIS 139, EB Docket No. 04-296, Fifth Report and Order (rel. Jan. 10, 2012).

² 47 C.F.R. § 1.3.

³ See, e.g., *In the Matter of Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act*, Report and Order, 2011 FCC LEXIS 5171, FCC 11-182, ¶¶ 52, 53 & 54 (2011) (granting small station or MVPDs waivers that meet two financial hardship conditions); *In the Matter of Evolution Broadband, LLC’s; Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules; Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, Memorandum Opinion and Order, 24 FCC Rcd 7890, ¶ 15 (2009) (providing an expedited process to receive a waiver to employ low-cost integrated navigation devices that are no more advanced than Evolution boxes via submission of a certification

available wireline broadband connections would justify a waiver of the EAS CAP compliance mandate could be clarified to provide operators with a simplified, efficient and cost effective process for small operators to obtain the relief that the Commission envisioned in drafting the order's waiver language.

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
Counsel to the American Cable Association

cc (via email): Lisa Fowlkes
Gregory Cooke
Tom Beers

to the Media Bureau that is put out for comment for a 10 day period, after which Bureau will grant or deny waiver or take other appropriate action); *In the Matter of Tandy Corporation, Walker Equipment Company, Ameriphone, Inc. and Ultratec, Inc., Request for Waiver of Volume Control Reset*, 47 C.F.R. § 68.317(f), Memorandum Opinion and Order, 16 FCC Rcd 5253, ¶¶ 13-15 (2001) (developing a streamlined approach for manufacturers of telephones with volume control over 18 dB through submission of a letter to Division Chief certifying that the equipment meets safety conditions specified by FCC; certification to be signed by company officer; Division to grant waiver if no other issues disclosed that preclude grant); *In the Matter of Part 68 Waiver Requests for Efficient Networks Inc.*, Order, 16 FCC Rcd 14719, ¶¶ 4-5 (2001) (granting ADSL waivers based on the standard); see also *In the Matter of Alcatel USA, Inc.; Petition for Waiver of the Signal Power Limitations Contained in Section 68.308(e)(1) of the Commission's Rules*, Erratum, 2000 FCC LEXIS 1421, DA 00-388, (rel. Mar. 21, 2000) (establishing a streamlined process for ADSL waivers that eliminates notice and comment requirements for modems certified to meet two specified criteria).