

April 16, 2012

EX PARTE

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

Re: Carriage of Digital Television Broadcast Signals:
Amendment to Part 76 of The Commission's Rules, CS Docket No. 98-120

Dear Ms. Dortch:

On April 12, 2012 Tom Wilson, Counsel, Sabin Bermant & Gould, and I met with Erin McGrath, Advisor for Commissioner McDowell to discuss the above-referenced proceeding. On behalf of Bright House Networks, LLC ("BHN"), we reiterated the factual and legal issues advanced in BHN's recent Reply Comments regarding the Dual Carriage rule.

We discussed the precarious constitutionality of must carry when it was adopted in 1992, and we explained why the current competitive MVPD marketplace further undermines the original "gatekeeper" justification for must carry and why the absence of must carry generally (and Dual Carriage specifically) would not jeopardize the entire broadcast industry. We emphasized that Dual Carriage goes well beyond the original must carry mandate – because it requires duplicate and inefficient carriage. We pointed out that more than 80% of BHN customers already chose to subscribe to digital services.

We noted that the three year Dual Carriage arrangement the cable industry agreed to on the eve of the broadcast DTV Transition should be not be extended further. We explained that the must carry statute does not compel a Dual Carriage interpretation, and the Commission has very strong First Amendment and policy grounds to construe the statute otherwise. Specifically, the "viewability" provision should be sensibly interpreted to simply require that cable operators providing must carry signals exclusively in digital ensure that the reception equipment they provide to customers accommodates these digital must carry channels.

