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May 29, 2012

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

Re: Notice of Ex Parte Presentation, CS Docket No. 98-120

Dear Ms. Dortch:

On May 24, 2012, Cristina Pauzé of Time Warner Cable Inc. (“TWC”) and the undersigned met with Erin McGrath, Legal Advisor to Commissioner McDowell, to discuss the pending Notice of Proposed Rulemaking regarding the impending sunset of the Commission’s viewability rule. Consistent with TWC’s comments and previous ex parte presentations, we argued that the viewability mandate adopted in 2007 is not compelled by Section 614 of the Communications Act and cannot be extended without risking a violation of cable operators’ First Amendment rights. We pointed out that Section 614 requires only that cable operators make available equipment that enables viewers to access must-carry signals, and that TWC’s intention to offer such equipment for lease satisfies the statutory obligations. We also reiterated TWC’s intention to notify customers before ceasing any transmissions of broadcast signals in analog format.

We further argued that, as long as a cable operator provides advance notice and ensures the availability of appropriate equipment before terminating the transmission of an analog broadcast signal, there was no reason to defer the sunset of the existing viewability rule. To the contrary, an advance notice requirement would undermine the rationale for any such “phase in” period. Moreover, we argued that, notwithstanding cable operators’ voluntary commitment to make converter boxes available at a low price, there is no statutory basis or policy reason for the Commission to regulate the rates of such equipment (provided such rates are otherwise consistent with any applicable rate regulation under Section 623 of the Communications Act).

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Please contact the undersigned if you have any questions regarding these issues.

Sincerely,

/s/ Matthew A. Brill

Matthew A. Brill
of LATHAM & WATKINS LLP
Counsel for Time Warner Cable Inc.

cc: Erin McGrath