CONNECTING HOMETOWN AMERICA

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Via ECFS

The Honorable Jessica Rosenworcel
Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: American Cable Association ("ACA") *Ex Parte* Letter: *In the Matter of National Cable & Telecommunications Association Petitions Regarding Section 652 of the Communications Act*, WC Docket No. 11-118

Dear Commissioner Rosenworcel:

Last year, ACA filed extensive comments in support of the petitions filed by the National Cable & Telecommunications Association ("NCTA") either for a Declaratory Ruling or grant of forbearance to prevent or limit the application of Section 652 of the Communications Act in regard to mergers, acquisitions or other transactions between cable operators and competition local exchange carriers ("CLECs"). In these comments, ACA demonstrated that Section 652 acts to inhibit transactions between cable operators and CLECs – transactions which have the potential to bring substantial benefits to consumers and further the public interest. As such, ACA urges the Commission to grant NCTA's conditional forbearance request.

Section 652 – the "cable-telco" cross-ownership provision – was adopted as part of the Telecommunications Act of 1996 ("1996 Act"), which opened markets for local telecommunications services to competition. The provision was designed to maintain the inherent facilities-based competition between incumbent local exchange carriers and incumbent cable operators serving a community as local telecommunications competition emerged. The

authors of the Act were not concerned with transactions between cable operators and competitive entities. After all, alliances between cable operators and non-incumbent providers achieve the pro-competitive aims of the 1996 Act, as cable operators bring capital and stability to these competitive entrants who in turn contribute their business telecommunications expertise to cable operators. Yet, because the Commission has interpreted Section 652 to apply to cable/CLEC transactions, this provision, which imposes significant regulatory hurdles, has acted to chill these competitively beneficial deals.

Restricting the applicability of Section 652 through forbearance as proposed by NCTA would meet the statutory requirements (Section 10(a) of the Act), including by serving the public interest . Cable operators and CLECs are non-dominant providers of telecommunications services, lacking market power in the provision of local exchange services. In addition, these entities largely operate in different product segments of local markets, with cable operators serving residential customers and CLECs business customers. Consequently, it is not necessary to apply the restrictions of Section 652 to ensure that rates, terms, and conditions for the provision of telecommunication services by these providers are just, reasonable, and not unjustly or unreasonable discriminatory, or to protect consumers. Further, as noted above, forbearance from the application of Section 652 to cable/CLEC transactions is consistent with the public interest, especially because these deals would promote local facilities-based competition. Finally, even after a grant of forbearance, transactions between cable operators and CLECs would continue to be subject to other provisions of the Act.

In closing, ACA believes that the NCTA's conditional forbearance request serves the Commission's aims to encourage robust competition in telecommunications markets, and it should be granted.

Sincerely,

Matthew M. Polka
President and Chief Executive Officer
American Cable Association

cc: Holly Saurer