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Barbara S. Esbin
Admitted in the District of Columbia

December 19, 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; Adams Cable Equipment, Inc. Request for Waiver of 47 C.F.R. § 76.1204, CSR 8537-Z/CS Doc. No. 97-80

Dear Ms. Dortch:

The American Cable Association (“ACA”) files this letter in support of Adams Cable Equipment, Inc.’s (“ACE”) request that the Media Bureau waive Section 76.1204(a)(1) of the Commission’s rules to permit cable operators to deploy refurbished set-top boxes with integrated security sold by ACE.¹ For all the reasons explained in the ACE Waiver Request, ACA believes that granting this relief will benefit cable operators and their subscribers, particularly smaller operators, and is in the public interest.² While ACA supports the grant of ACE’s Waiver Request, it urges the Media Bureau to (i) adopt a simple process for satisfying the certification requirement, both with regard to preparation and filing that operators may use without the need to retain counsel; and (ii) make clear in any order granting ACE’s Waiver Request that the Bureau would grant similar relief on an expedited basis to other vendors seeking to sell refurbished set-top boxes with integrated security. These measures will ensure that operators, particularly smaller ones, and their customers are able to reap the maximum benefit possible from the availability of refurbished set-top boxes with integrated security in a quick and cost effective manner.

To the extent the Commission believes that the certification process described by ACE is necessary, it should ensure that certification is implemented in a simple manner and can be completed without the need for an operator, particularly a smaller one, to retain counsel to draft the certification and make the filing.³ ACA believes that small cable operators are the class of operators

¹ See Media Bureau Action, Adams Cable Equipment Inc. Files Request for Waiver of 47 C.F.R. § 76.1204(a)(1) With the Commission, CSR-8537-Z/CS 97-80, Public Notice, DA 11-1936 (rel. Nov. 22, 2011); *Adams Cable Equipment Inc. Request for Waiver of 47 C.F.R. § 76.1204(a)(1)* (filed Oct. 25, 2011) (“ACE Waiver Request”).

² *Id.* at 2-5.

³ *Id.* at 2-3 (proposing that the waiver extend only to cable operators that commit in writing to the Commission that they will (i) notify their subscribers that refurbished set-top boxes are available from

most likely to be interested in taking advantage of the ability to deploy refurbished set-top boxes as a result of the ACE Waiver Request, and the Commission should take steps to ensure that these operators are not disproportionately burdened by the cost of complying with the condition of the waiver related to filing a certificate with the Commission when attempting to avail themselves of this opportunity. For example, requiring certification without providing clear and specific instructions on what the certification must contain would likely require small operators to hire counsel to draft and complete a compliant certification. Moreover, if the process for filing such a certification with the Commission is not one that that cable operators typically utilize on their own, small operators again might feel the need to incur the expense of hiring an attorney. To reduce these burdens, the Media Bureau should provide very specific direction on the information to be included in the certification, and also provide easy means and clear instructions on how cable operators can submit these certifications to the Commission.

ACA suggests that the Commission adopt a certification filing process similar to what the Commission has done to simplify the filing of Customer Proprietary Network Information (“CPNI”) Officer’s Certificates.⁴ According to most of ACA’s smaller cable operator members, the CPNI certification filing process is one that can be done by the staff of smaller operators on their own without the aid of counsel. One key feature of the CPNI process is a suggested template offered by the Commission to ensure that companies will be in compliance with the annual certification filing requirement if they complete the suggested template fully and accurately. The other key feature is the opportunity to file the certificate in any one of three ways: (i) using the Commission’s Electronic Comment Filing System (ECFS); (2) by filing paper copies; or (3) by filing through a web based application designed by the Commission and made available on the Commission’s website. It is the Commission’s web based application that makes filing these certificates particularly easy for small ACA members to do on their own.

With respect to the requirement under discussion of permitting cable to deploy refurbished set-top boxes with integrated security upon filing a certification, the Commission should provide a suggested template to ensure that if a cable operator completes the certification template fully and accurately, the operator will be deemed to meet the conditions established to receive waiver of the integration ban. For this purpose, ACA supports a certification template based on the model certification proposed by ACE in Exhibit 1 of the ACE Waiver Request. Second, consistent with the CPNI certification filing process, the FCC should permit cable operators to file these certificates in one of three ways; (i) using ECFS; (ii) by filing paper copies; and (iii) by filing through a web application available on the Commission’s website. In particular, ACA encourages the Commission to establish a web-based application for direct receipt of certifications similar to that established for the filing of the annual CPNI certificates.⁵ While the web-based application is being established, the Commission should accept certifications from cable operators using the suggested template that are filed using ECFS or that are submitted on paper. Providing these additional options will allow the small cable operators and their subscribers to obtain the benefits of deploying the refurbished set-top boxes offered by ACE while minimizing the time and cost of preparing and filing the certifications.

ACE, (ii) support the set-top boxes that subscribers purchase from ACE, and (iii) continue to support CableCARD devices).

⁴ See Public Notice, “FCC Enforcement Advisory-Annual CPNI Certifications Due March 1, 2012” FCCDA 12-170, Enforcement Advisory No. 2012-01, February 16, 2012.

⁵ *Id.*

Finally, ACA notes that there is no evidence suggesting that ACE is uniquely qualified to sell refurbished set-top boxes with integrated security. Indeed, ACA believes that having multiple sources for refurbished set-top boxes with integrated security will increase competition among sellers of these devices and benefit cable operators through an increased availability of devices for purchase, lower prices and better customer support. Accordingly, the Bureau should also make clear in any order granting the ACE Waiver Request that it would expeditiously grant similar relief to other entities seeking to sell refurbished set-top boxes with integrated security.

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 Esbin

cc (via email): Michelle Carey