

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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)	
Herring Broadcasting, Inc.,)	
Complainant)	File No. CSR-7709-P
)	
v.)	
)	
Time Warner Cable Inc.)	
Defendant)	
)	

OPPOSITION TO MOTION FOR EXTENSION OF TIME

Herring Broadcasting, Inc., doing business as WealthTV (“hereinafter WealthTV”) opposes the January 8, 2008 motion of Time Warner Cable Inc. (“TWC”) for an extension of time in which to file its answer to WealthTV’s complaint for the following reasons:

The regulations clearly specify a 30 day period for a defendant in a carriage access complaint to answer the complaint. The period is stated in the regulations so as to ensure prompt, timely and orderly conduct of the Commission’s handling of the complaint. The timeliness of the Commission’s handling of carriage access complaints filed by independent programmers has been recognized as a problem by the Commission, and is a prime reason that the complaint process has not been more widely used by independent programmers to vindicate access problems. Therefore, an extension of the stated time limit should be granted by the Commission only for good cause and where the complainant would not be harmed by the granting of the extension. Here, there is no good cause, and complainant would be harmed by the granting of the extension.

Defendant has been aware of all of the facts alleged in the complaint for many months and there is no good cause for extending the time for returning an answer. The pre-filing notice was provided in May, and over the course of the summer, several meetings and many email and telephonic exchanges occurred with key TWC officials in which all that is alleged in the complaint was laid out and discussed with them. The alleged difficulty of contacting Mickey Carter provides no good cause for an extension: The role of Mickey Carter was expressly highlighted for TWC in a meeting in June 2007; his departure from TWC occurred early in 2007, not recently, and there has been ample time for TWC to contact Mr. Carter to collect relevant information. Additionally, the exhibit error referred to in the motion was promptly corrected on January 7, 2008, the same day that defendant's counsel called it to the attention of WealthTV's counsel and two weeks before the end of the 30 day period for returning an answer specified in the regulations.

Further, WealthTV would be harmed by the granting of the extension. WealthTV has long been denied a fair opportunity for carriage on TWC's systems because of TWC's decision to favor its own affiliated programming service, MOJO, over WealthTV's substantially similar offering. The delay already has been lengthy with initial discussions going back to 2004, and the delay has been deliberately drawn out, as alleged in the complaint, by TWC for its own strategic benefit so as to give developmental and market advantages to MOJO over WealthTV. The delay has operated to WealthTV's detriment; protracted denial of carriage by TWC for discriminatory reasons not only blocks access to TWC's millions of subscribers, but also strongly discourages fair consideration by other major carriage partners. Moreover, every day that

TWC's affiliated programmer, MOJO, enjoys carriage nationwide on TWC's systems and WealthTV does not results in further harm to WealthTV as it is hindered in reaching its target audience and advertisers while MOJO can use such access to cement its brand and viewership. Thus, WealthTV would be harmed by the granting of the requested extension because of the further delay it entails.

For all these reasons, WealthTV asks that the Commission deny the motion for extension of time. While in other circumstances an enlargement of time might be routinely granted by the Commission, or even stipulated to by the parties, an extension is not appropriate here, particularly when requested two weeks before the deadline stated in the regulations with ample time to compose an answer remaining on the clock. Time is of the essence in the handling of programming disputes, and granting an extension here will signal to the independent programming community that the Commission does not understand this reality and will confirm old stereotypes about the uselessness of the complaint process.

Respectfully submitted,
HERRING BROADCASTING, INC.,
DOING BUSINESS AS WEALTHTV

BY: //signed//
Kathleen Wallman
Kathleen Wallman, PLLC
Its Attorney

9332 Ramey Lane
Great Falls, VA 22066

January 9, 2008

CERTIFICATE OF SERVICE

I, Kathleen Wallman, hereby certify that on January 9, 2008 I caused to be served the foregoing Opposition to Motion for Extension of Time upon the following parties by email and first class mail with respect to Mr. Harding, by overnight carrier with respect to Mr. Zimmerman and by email with respect to the other parties:

Monica Desai
Chief, Media Bureau
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Steven Broeckaert
Deputy Chief, Policy Division, Media Bureau
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Arthur Harding
Fleischman & Harding, LLP
1255 23d St., N.W.
Washington, D.C. 20037

Jeffrey Zimmerman
Time Warner Cable Inc.
290 Harbor Dr
Stamford, CT 06902

//signed//
Kathleen Wallman