



July 10, 2008

**MEMORANDUM TO CLIENTS**

**Re: Office of Management and Budget Rejects FCC's New Leased Access Rules.**

In a surprising development, the Office of Management and Budget ("OMB") yesterday rejected the FCC's new leased access rules. These new rules had been stayed in May by the United States Court of Appeals for the Sixth Circuit pending completion of appellate review, but a separate OMB review of the rules continued and resulted in yesterday's decision.

OMB determined that in adopting the new rules, the FCC failed to adequately demonstrate: (1) the need for reducing the timeframe cable operators have to provide information to potential programmers from fifteen days to three; (2) that it has taken reasonable steps to minimize the burden on cable operators who will be required to hire new staff in order to comply with the reduced deadline; (3) that there are reasonable mechanisms in place to protect proprietary and confidential information cable operators will be required to provide potential programmers; (4) the practical utility and need for an increased number of non-bona fide inquiries to cable operators and the inherent paperwork burden, due to the reduced pricing provided by the new rules; and (5) that it has taken reasonable steps to minimize the burden on cable operators, who due to reduced pricing, will be required to hire new staff in order to maintain the capacity to respond to an increased number of inquiries from potential programmers.

The impact this decision might have on any next steps by the FCC in response to the OMB's objections, or on the pending court challenge, remains unclear. However, the combined effect of the OMB decision along with the stay is to relieve cable operators from having to comply with any of the FCC new leased access rules for the foreseeable future.

Please contact us if you have any questions regarding any aspect of the new leased access rules.

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