Statement of
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BOYCOM Cablevision and the other small and medium-sized cable operator members of the American Cable Association (ACA) provide three vital services throughout smaller markets and rural areas – video, voice and broadband Internet. Often, we serve very rural areas – those "end-of-the-World-and-turn-left" areas that no large company wants to touch. I am proud of what BOYCOM and other small cable operators have brought to their communities in these past decades, and there continues to be opportunity for us to invest private capital to maintain and expand our state-of-the-art communications networks and services.

When my husband and I started our business in 1993, many people thought we were crazy. We faced a new law, the 1992 Cable Act, which imposed a lot of regulations on the cable industry. There was plenty of doom and gloom in those days. Still we built our first system in rural Missouri. Today we have 5 core systems in the region that provide video to about 2,000 subscribers and broadband to 3,000. However, it hasn't been easy. We've always said that "we have done so much, for so long, with so little that we are now qualified to do absolutely everything with nothing at all."

Our story is similar to other small cable operators who have invested huge amounts of their own money in rural areas to build, maintain, upgrade, and expand their networks. In fact, we actually have a second mortgage on our personal residence as collateral for our capital investment. The industry initially invested billions to deliver analog cable service throughout the country, and then in the 1990s, we reinvested billions more to upgrade our plant to provide more advanced services. The cable industry is still in the midst of this great privately funded evolution. As a result of all our investment, cable today is the best catalyst for broadband growth.

Cable Operators are the Country's Leaders in Broadband

Today the cable industry offers access to broadband service to 95% of the country with nearly all cable operators providing download speeds of at least 4 Mbps and upload speeds of at least 1. With the advent of DOCSIS 3.0, these operators can deliver speeds of 100 Mbps over their existing fiber/coaxial networks. The next generation, DOCSIS 3.1, which is moving from the lab to market, will provide even greater capabilities. By keeping pace with technological change and investing in our networks, we have become the country's leaders in broadband deployment. The recent Federal Communications Commission (FCC) report "Measuring Broadband America" once again demonstrated that when it comes to broadband, cable operators deliver what they promise.

I know the President wants to get broadband into "the rural-est of rurals," and small cable operators, like my company, are key to achieving that goal. It's not only the larger operators in urban areas making these investments, but I'm proud to say that BOYCOM and nearly 850 other small and medium-sized members of ACA are investing to bring these capabilities to small and rural markets. For instance, BOYCOM is deploying fiber-to-the-home in all of our core systems. This will ensure that our customers will have the broadband performance capabilities they need for their businesses, education, health-care, as well as for just interacting with each other. For rural areas, this capability is critical to their future viability. We are not the exception. There are many ACA companies like ours, with fewer than 5,000 total subscribers, serving smaller markets and rural areas, which now have the opportunity to be full participants in the nation's broadband future.

Of course, as smaller operators in rural areas, we sometimes need to be more creative in addressing the needs of our customers and overcoming some of the market disadvantages we face. The National Cable Television Cooperative (NCTC), a national buying group serving all ACA members, helps in this regard. By providing market efficiencies to broadband equipment manufacturers and service providers, the NCTC can negotiate lower prices from these vendors than individual broadband providers can on their own. Members, like BOYCOM, can then opt into NCTC's master agreements, which enable us to lower the costs of broadband services. NCTC is an important actor in independent cable's broadband deployment story and will continue to play an important role in the future.

The cable story is not just about upgrading our existing infrastructure. Small cable operators like BOYCOM are also expanding their footprint to provide broadband to previously unserved areas.

In the foothills of the Ozarks, as you know, that presents a challenge. But we have developed an efficient way to build plant using a combination of fiber and wireless. We take fiber all the way out as far as it is economical and then install a wireless tower. This provides coverage to those folks that are still in those "hills and hollers where you have to have your own Tom Cat if you want kittens," and it is working really well.

Cable operators in rural areas also are expanding in other ways. We have found that demand from owners of cell towers for fiber backhaul connections presents new business opportunities to deploy fiber into less densely populated communities. Once the connections to cell towers are made, the cost to branch off the installed fiber to residences is lower. It provides an economic means to provide high speed Internet to the households along the fiber route, enabling us to serve previously unserved areas, and to do so without any government support.

And our story is not just about providing households with our state-of-the-art networks. Many of us have also moved into providing dedicated broadband services and other related services to business customers. Moreover, we're helping to connect anchor institutions, such as K-12 schools, universities, libraries, hospitals/emergency medical facilities, and public safety facilities. These are great opportunities for us, especially as our old video business model changes.

All of us understand that our networks provide an incredible platform for our future. Our networks allow us to innovate in ways unthinkable just a short time ago, enabling us to respond to our customers and create new services that meet their needs. Our networks are not only our fundamental asset. They are a fundamental asset for our communities. They enable people and local institutions to interact. They enable businesses to develop and grow. They enable community discussion and political debate.

Because we understand the tremendous value of our networks, we continue to invest to upgrade them with new capabilities and to build them out to new areas.

Challenges Facing Small Cable Operators Serving Rural Areas

That said, smaller cable operators serving rural areas still face significant challenges. Some of these are also faced by big companies serving urban areas, but some are unique to small rural providers.

When it comes to broadband Internet service, upon which our customers rely increasingly for essential activities, we are constantly working to ensure a great experience for all. That sometimes means we need to control those few customers who use excessive amounts of bandwidth through reasonable network management and billing practices. We also need to be able to tailor our broadband service to unique customer needs by offering specialized or "managed" services. As someone who oversees our networks, develops our services, and works with our customers, I need to emphasize how critically important it is that Congress and the FCC continue its historic "light touch" regulation of broadband Internet services. In an industry that is so dynamic, that has so many competitors, and that requires continuing and significant levels of investment, it would be counterproductive for the government to impose any greater regulation, particularly on small rural providers, like BOYCOM.

Moreover, as some Senators have already recognized, it is vital that the government not subsidize competitors to build their networks in areas where our companies already provide broadband. When we spend our own capital to bring broadband and other services to communities, there is absolutely no reason for the government to step in and aid others. Not only does this discourage private investment, it is a waste of taxpayer dollars.

This is not to say the government should not work to bring broadband to all communities. Many ACA members, which include rate-of-return and price cap carriers, are the sole providers of broadband in high-cost areas. These are places where it will never be economically viable for the private sector to fully shoulder the financing of buildout because the cost to do so cannot be recovered in these markets. Some partnership with the Federal government may be necessary in these places. However, if support is given, we need to make sure that support is targeted to only areas that lack an unsubsidized broadband provider and that it is distributed efficiently. This has been a problem with the old universal service fund, and other government programs, but recently the FCC has correctly recognized that the world has changed, and the universal service program must change along with it. It is critical that the FCC hold true to its stated goals and that other programs that support broadband deployment, like the U.S. Department of Agriculture's (USDA) Rural Broadband Loan Program that is administered by the Rural Utilities Service (RUS), are changed to make sure the government does not subsidize competitors to privately funded broadband providers.

The FCC's Implementation of the Connect America Fund

With respect to the implementation of the FCC's reform of the universal service fund and establishment of the broadband Connect America Fund (CAF), there are three principles that must be followed. First, as I just indicated, no support should be provided in areas where competitive providers already offer broadband service. Second, support should be distributed efficiently, that is, support should be only the amount necessary to deliver the level of broadband service required by the

Commission. Third, all broadband providers, including cable operators, should have a fair opportunity to access support when the Commission holds reverse auctions.

Let me elaborate on how these principles should be implemented by the FCC with respect to the development of the cost model for CAF Phase II, the program that will be used to award $9 billion in support over 5 years in high-cost areas served by the larger telephone companies, the so-called price cap telephone carriers. The purpose of the cost model is to precisely estimate the amount of support that would be required to build baseline broadband (4/1 Mbps) in areas unserved by any competitor. As a consumer who contributes to the USF program, and as a small cable operator who competes against a price cap carrier, it is critical that the FCC gets the model right. Otherwise, the American consumer could be paying in excess of hundreds of millions of dollars per year for something but getting nothing in return. As a rural cable operator, my concern is that this excessive support, could be used to compete with me and other ACA members. We urge this Committee to exercise its oversight authority regarding this matter.

Another important part of CAF implementation is the plan to hold reverse auctions to provide broadband services in areas where the large price cap telephone companies do not accept CAF Phase II funding. We support the use of reverse auctions. This process can result in the selection of the best and most efficient providers if as many broadband providers as possible can participate, including cable operators. However, there is a major barrier standing in the way – under the law today, only an "Eligible Telecommunications Carrier" (ETC) can participate. Few cable operators are ETCs because the state-run process to become an ETC is so onerous, and ETC status comes with burdensome requirements. Quite frankly, ETC status is irrelevant to reverse auction participation because it is the FCC who establishes all the requirements to obtain CAF support. The FCC can remedy this problem. We ask that Congress encourage the FCC to take steps to make it easier and less burdensome for cable operators to become ETCs so that they may participate in the reverse auctions when such auctions are used.

In addition to the issues associated with the CAF implementation, there are four specific areas where government has an important role to play in helping ensure that broadband is brought to all Americans: the lack of middle mile infrastructure and rising middle-mile costs; outdated pole access attachment regulations that result in both higher fees and delayed access; challenges to obtaining public and private rights-of-way; and decreasing resources available to small cable operators to offer broadband due to the imposition of onerous regulations and declining video margins.

The Lack of Middle Mile Infrastructure and Rising Middle-Mile Costs

First, the marketplace is rapidly changing – demand for bandwidth has been rising exponentially over recent years as consumers expect increasingly fast connection speeds to access new services such as streaming video. And this is expected to continue, with US broadband speeds estimated to more than triple by 2016. While this trend holds true in urban and rural areas alike, it is significantly more difficult for smaller cable operators to meet this new demand than it is for larger operators with scale. That is, the high cost to serve rural areas with essential facilities is getting higher.

As our customers increase their use of broadband service, we need to upgrade not only our last-mile connections to the home, but also the "middle-mile" pipes which carry traffic from our local networks to an Internet backbone access point. This presents a number of challenges for ACA members. The FCC has recognized that middle-mile costs increase as the distance from the network to the backbone access point grows, and rural providers generally operate networks that are among the

farthest from these access points.

Additionally, unlike in urban areas, there may be few middle-mile links available. In fact in many rural areas there may be only a single link. And many of these links use outdated technologies, which means we often can only access lower capacity pipes – this in turn limits the data speeds we can provide to our customers. It also means we often pay much higher prices for each byte we transmit.

Some of us have explored constructing our own middle-mile links, but because the distances involved are extremely long and the density of our users too low, the cost is prohibitive. As our subscribers continue to expect faster connection speeds, poor middle mile infrastructure and rising middle-mile costs make it more difficult for us to maintain current prices, upgrade our services, and build out to new locations.

In its National Broadband Plan, the FCC identified the lack of adequate middle-mile infrastructure and the high costs of access to be a significant problem. The FCC is examining the issue in a further rulemaking with respect to CAF implementation. The record in this proceeding closed one year ago, and we urge the FCC to conclude its work shortly and issue a decision. Where prices are too high, it should use its regulatory authority to ensure they are consistent with competitive market rates. Where capacity is inadequate, it should use the CAF to support the deployment of middle-mile capacity.

Outdated Pole Attachment Regulations That Result in Both Higher Fees and Delayed Access

Second, smaller operators generally serve less dense areas, which necessitates that to reach each location their networks must attach to many more poles than larger operators serving more urban areas. While the FCC has done much to improve the cost and speed of pole access, the 1978 Pole Attachment Act stands in the way of the Commission addressing some significant problems in the market. For instance, it does not contemplate access for standalone broadband service. It only permits the FCC to regulate via national rules where states decline to act. Moreover, it does not cover cooperative and municipal pole owners, who remain exempt from any regulation, allowing them to set much higher fees and delay access. All of this drives up costs and makes broadband deployment even more uneconomical in rural areas.

The FCC's National Broadband Plan wisely suggested that Congress should eliminate the exemption for cooperatives and municipalities to restore fairness and competitive rates to the market. We encourage Congress to take action to deal with the obvious shortcomings in the existing law.

Challenges Obtaining Public and Private Rights-of-Way That Hinder Broadband Deployment

Third, ACA members face many restrictions, delays, excessive fees, and competitively discriminatory policies imposed by private and public entities when they seek to extend service to new communities. These problems stem from public and private entities that control rights-of-way. ACA members like BOYCOM generally do not have teams of lawyers and consultants to deal with all these "gatekeepers" and so are particularly vulnerable to unfair, unreasonable and discriminatory treatment.

We were pleased last year when the President issued an executive order requiring federal agencies to develop new uniform policies and practices for accessing the federal government's assets for the purpose of broadband deployment. It included the "dig once" provision, a smart idea that was previously recognized by some Senators and Representatives, which would require the deployment of

conduit for broadband facilities in conjunction with federal or federally assisted highway construction whenever possible.

However, the executive order only applies to federal lands, buildings, and rights of way, federally assisted highways, and tribal and individual Indian trust lands (tribal lands). More needs to be done. We need the government's assistance to ensure we are treated fairly and reasonably when seeking access to all rights-of-ways.

Decreasing Resources Available to Small Cable Operators to Offer Broadband Due to Onerous Regulations and Declining Video Margins

Fourth, many smaller operators face increasing burdens stemming from new regulatory compliance obligations and decreasing video margins which cut into the financial resources available to build, maintain, upgrade, and expand broadband.

Despite the commendable efforts of the FCC to minimize the burdens on smaller operators regarding some new rules and regulations, smaller operators have been unable to obtain exemptions to avoid being forced to upgrade their Emergency Alert Service (EAS) equipment; participate in the National EAS test and associated reporting requirements; comply with new Communications and Video Accessibility Act of 2010 ("CVAA") requirements and recordkeeping obligations; and to satisfy new Open Internet disclosure requirements. In addition, the FCC is considering imposing additional compliance obligations on small operators, such as the FCC's recent comprehensive and mandatory special access data collection and requirements to include home networking functionalities in deployed two-way HD set top boxes. Moreover, there are additional CVAA related obligations on the horizon. While such efforts seek to achieve commendable public policy goals, the cost of these many separate compliance obligations adds up, straining the resources of smaller operators, and making the offering of broadband services at reasonable prices more difficult.

For decades, cable operators supported infrastructure and service investment through revenues derived solely from the provision of video services. However, a lot has changed in the last twenty years. In 1992, cable was the dominant provider of video service in their markets. It was a time before direct broadcast satellite and before telephone companies launched video. It was before the Internet and over-the-top video providers such as Netflix and Hulu. Today, cable faces robust competition across the country, and its share of the market has steadily decreased. In many rural areas, satellite TV has more subscribers than cable, and Internet video traffic represents the majority of overall Internet traffic. At the same time, the cost of video programming has increased sharply, particularly for retransmission consent and sports networks offered regionally and nationally. While video revenue has increased for most cable operators, video expenses have grown faster, sending video margins to historic lows five years running, according to respected industry analyst SNL Kagan. The story is a little bit different for BOYCOM. The state of Missouri has seventeen "Perpetually Impoverished Counties" – counties with an average income below the national poverty level since the 1960 Census. BOYCOM services are available in five Missouri counties and all five counties are "Perpetually Impoverished." As such, BOYCOM has not been able to have a rate increase in four years. Our subscriber base simply cannot afford to pay another dime. We're eating the cost increases. The reduced profit from video puts pressure on cable operators, particularly smaller ones, and reduces available capital for broadband. This is one area where the sad irony of competition at the retail video level has resulted in higher wholesale programming prices as new entrants have been willing to "pay up" simply to enter the market. Making matters worse, the video market continues to be governed by outdated rules and regulations passed decades earlier. We

urge Congress to revisit these rules, and ensure that regulation reflects marketplace realities.

For cable operators, all of these problems are driving many to shut down their smallest systems. For the FCC's 14th Annual Report on Video Competition, ACA presented data showing that the number of cable systems has significantly decreased over the past five years. Using the FCC's own data, ACA calculated that since October 2005, the number of cable systems has declined by 26% (from 7,208 to 5,312) and that for systems with fewer than 10,000 subscribers, the percentage drop in the number of systems was even greater. ACA also has presented data from the NCTC that shows similar results. During the last five years, NCTC members closed a total of 793 small and rural cable systems serving a total of more than 35,000 customers. BOYCOM is a perfect example of this harsh reality. On December 31, 2011 we were forced to shut down thirteen very small rural systems in Southeast and South Central Missouri-causing these communities to "go dark." Congress must take notice of the changing landscape for facilities-based operators because when a small cable system serving a rural area shuts down, it not only results in the loss of multichannel video service, including local TV service, but also the prospect of future broadband connections to the Internet.

The Government Can Help Small Cable Bring Comparable Broadband to More Rural Areas

These concerns – the lack of middle mile infrastructure and rising middle-mile costs; outdated pole access attachment regulations that result in both higher fees and delayed access; challenges to obtaining public and private rights-of-way; decreasing resources available to small cable operators to offer broadband due to the imposition of onerous regulations and declining video margins – each require Congress' attention so that small cable operators like BOYCOM can continue to compete and can invest in modern networks that are capable of providing faster broadband to greater numbers of rural communities.