

# SOUTH CAROLINA CABLE TELEVISION ASSOCIATION NEWSLETTER

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3<sup>RD</sup> QUARTER 2010



## *NON-LAWYER PROSECUTIONS PROHIBITED*

The South Carolina Supreme Court ruled on September 7, 2010, that businesses could not use non-lawyers to prosecute criminal matters in magistrate's courts. *In the Matter of Richland County Magistrate's Court, Fifth Judicial Circuit Solicitor W. Barney Giese*, Opinion No. 26876. This is a marked departure from common practice. Richland County Solicitor Giese filed a declaratory judgment action in the Court's original jurisdiction seeking a determination whether it is the unauthorized practice of law for a non-lawyer to represent a business as a prosecutor of a criminal misdemeanor charge, other than a traffic offense, in magistrate's court.

The declaratory judgment petition resulted from two cases in involving the prosecution and recovery of worthless checks in Richland County magistrate's court. A non-lawyer field agent from the local business purported to act as prosecutor and the defendants were represented by the Richland County Public Defender's Office. Defense counsel moved to dismiss for lack of prosecution arguing that the practice of representative agents proceeding against criminal defendants in magistrate's court constitutes the unauthorized practice of law. Without proceeding to trial, the magistrate took the motions under advisement and granted a continuance in order to notify the solicitor who then filed the declaratory petition with the Supreme Court.

The Supreme Court noted that the unique nature of criminal law and the corresponding unique role of the prosecutor illustrate the danger in allowing private prosecutions. The purpose of a criminal court is to vindicate the public interest in the enforcement of the criminal law while at the same time safeguarding the rights of the individual defendant. If a private party is permitted to prosecute a criminal action, we can no longer be assured that the powers of the State are employed only for the interest of the community at large.

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## ***NEWS FROM THE EXECUTIVE DIRECTOR***

The 2010 Joint Summer Meeting (JSM) was a great success this year and I sincerely appreciate your participation. I am especially grateful to the South Carolina Cable Television Association Board (SCCTA) Director Mary Anne Jacobs who assisted me and our friends at the North Carolina Cable Television Association planning the JSM.

A number of you served on panels and we greatly appreciate you updating participants regarding federal and state legislative matters that greatly affect how we do business in the Carolinas. Mary Anne Jacobs moderated an informative panel consisting of NCTA's Lisa Schoenthaler, Comcast's Chris McDonald, Time Warner Cable's Buck Yarborough and Dan Jones.

Allison Ford, CPA, Burkett, Burkett & Burkett, presented the current financials in both the association and foundation board meetings while Jim David, Wells Fargo, reported on investments. Allison Ford and I presented the 2010/2011 budgets which were approved by the SCCTA board.

During the SCCTA board meeting it was decided we should focus on increasing SCCTA Associate Memberships. These operators know each of you cable executives as you contract business with them. I thank you in advance for assisting me this fall as we invite new businesses to join our team at the SC Cable Television Association. Member invitations will be sent in November.

Tim Gage presented outgoing SCCTA Chair Mary Anne Jacobs with a plaque and gift certificate honoring Mary Anne for her hard work and dedication to this association. Mary Anne was instrumental regarding the many successes in transitioning the association offices to Columbia.

The SCCTA Annual Meeting was held this month (October 2011) to elect 2011 SCCTA board officers. The SCCTA Nomination Committee consisting of Bill Watson, Dan Jones, Jim Corrin and Mary Anne Jacobs reported the nominations at this annual meeting. Tim Gage, Comcast, was elected Board Chairman, Time Warner Cable's Dan Jones, Vice Chairman, Jim Corrin, Comcast, Secretary and Atlantic Broadband's Sam McGill is the new Treasurer. Time Warner Cable's Jack Stanley was named a new SC Board Director. The SCCTA continues to have a dedicated team of cable executives leading the charge to promote and protect our state's cable industry.

Since federal stimulus funds are no longer available to support states, a number of larger SC state agencies, expect huge deficits for 2011/2012. Additionally, every decade, after the census, state legislators must reapportion, moving district lines to match shifting populations so that each district has roughly equal numbers. These two issues, the annual appropriations bill and reapportionment are expected to dominate the 2011 SC Legislative session.

I continue to follow developments in TRAC (Tax Realignment Commission) and the proposals to amend the Underground Utility Damage Prevention Act. Additionally, we continue to evaluate carefully plans for the 2011 legislative session. Details will be provided on future conference calls which will resume on an as needed basis until session begins January 11, 2011.

I hope each of you are enjoying this beautiful fall weather and will enjoy every minute of the upcoming holiday season.

*Ray Sharpe*

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## SC Cable Television Association Board of Director Officers



**Tim Gage, Chairman**  
Comcast Communications



**Dan Jones, Vice Chairman**  
Time Warner Cable



**Jim Corrin, Secretary**  
Charter Communications



**Sam McGill, Treasurer**  
Atlantic Broadband

*Welcome Jack Stanley to the SCCTA Board!*



**Jack Stanley, Time Warner Cable**  
New SCCTA Board Director

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## FEDERAL BROADBAND INITIATIVE – UPDATE

On September 27, 2010, the Department of Commerce’s National Telecommunications and Information Administration (“NTIA”) announced the final awards in the State Broadband Data and Development grant program funding by the American Recovery and Reinvestment Act of 2009 (“ARRA”). Connected Nation, the designated entity on behalf of the State of South Carolina, had its existing broadband mapping grant supplemented by \$2,293,429. The additional award will allow mapping efforts to continue for three additional years and to focus on projects relating to broadband planning. South Carolina’s other broadband grant awards include the following:

- \$5.9 million SC Reach for Success Program by the S.C. State Board for Technical and Comprehensive Education,
- \$28.5 million to the One Economy Corporation for its 21<sup>st</sup> Century Information and Support Ecosystem project,
- \$62 million to the University Corporation for Advanced Internet Development,
- \$14.9 million to the Communication Service for the Deaf, and
- \$9.6 million to the County of Oconee.

Award information is available at <http://www.ntia.doc.gov/broadbandgrants/projects.html>.

As of September 30, 2010, all Broadband Incentives Program (“BIP”) applicants that are receiving an award had been notified. BIP furnishes loans, grants and combinations to assist with expanding the access and quality of broadband services across rural America. South Carolina recipients in 2010 include Home Telephone Company and Windstream Corporation. <http://www.broadbandusa.gov/BIPportal/index.htm>

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### Non-Lawyer Prosecutions Prohibited (continued from page 1....)

The Court found that allowing prosecution decision to be made by, or even influenced by, private interests would do irreparable harm to the criminal justice system. A non-lawyer prosecutor not only acts on interests other than those of the community but is also not bound by ethical rules, yet his prosecution may result in the imprisonment of the defendant.

## ***MEMBER NEWS***



*Citadel cadets tour C-Span Bus*

The C-SPAN Digital Bus visited Charleston on its national tour with three stops in the Charleston area. During the stops, students and visitors had the opportunity to tour the Digital Bus and learn about C-SPAN's public affairs programming.

Launched in June 2010, C-SPAN's new customized coach engages visitors of all ages through interactive multimedia. Digital Bus visitors experience C-SPAN's unique public affairs content across high-tech platforms such as HD-TV, the internet, and radio, encouraging customers to follow "Washington, your way." Hands on demonstrations featured the C-SPAN Video Library and the network's social media offerings and there are special resources for civics teachers and their students.

While in Charleston, the C-SPAN bus stopped by the Garrett Academy of Technology, cadets at the Citadel, and the Charleston School of the Arts. "The students were very receptive to the C-SPAN demonstrations," said Bill Watson, VP and General Manager. "Anytime we can partner with a programmer to bring this type of

### **COMCAST BRINGS NEW C-SPAN DIGITAL BUS TO CHARLESTON, SC**

experience to Charleston it is a win for Comcast and a win for our community."

The Digital Bus is designed to provide interactive, self-guided multimedia tours demonstrating C-SPAN's programming via varied distribution platforms to all visitors, including:

- TV monitors to demonstrate the C-SPAN Networks in both standard and high definition.
- Computer kiosks to demonstrate C-SPAN's many web offerings including the Video Library.
- Laptops and mobile application devices to demonstrate C-SPAN's social media presence and radio offerings.

The C-SPAN Digital Bus was launched in June of 2010; however, this year also marks the bus program's seventeenth year on the road. The C-SPAN Digital Bus and crew travel the country, producing programs, and promoting civic engagement through education.

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## FCC APPEALS INDECENCY RULING

The Radio Act of 1927 prohibits anyone from uttering any obscene, indecent or profane language by means of radio communication. 18 U.S.C. § 1464. In 1975 the FCC first exercised its authority to regulate speech it deemed indecent but not obscene after George Carlin's "Filthy Words" monologue was broadcast on the radio at 2:00 in the afternoon. The broadcaster challenged the FCC and the Supreme Court held that the FCC could, in that situation, restrict indecent speech in the broadcast context that did not meet the legal definition of obscenity. The FCC exercised restraint in enforcement actions and held that a single, non-literal use of an expletive was not actionably indecent. The indecency ban was applied to broadcasts aired between 6 a.m. and 10 p.m. In 2001 the FCC issued a policy statement in which it set forth its indecency standard in detail to provide guidance to the broadcast industry regarding its enforcement policies. *Industry Guidance on the Commission's Case Law Interpreting 18 U.S.C. § 1464*.

Expletives uttered by Cher and Nicole Richie during broadcasts of the Billboard Music Awards Show and U2 band member Bono during the Golden Globes Award triggered numerous complaints. As a result the FCC changed its policy of allowing "fleeting expletives" in 2004. At the same time the FCC expanded its enforcement efforts to include fleeting expletives; it also began issuing record fines for violations. NBC and other parties filed petitions for reconsideration of the *Golden Globes Order* raising statutory and constitutional challenges to the new policy. While this petition was pending, the FCC applied the policy in *In re Complaints Regarding Various Television Broadcasts between February 2, 2002, and March 8, 2005*, 21 FCC Rcd 2664 (2006)

("Omnibus Order"). In the *Omnibus Order* the FCC found four programs-2002 Billboard Music Awards, the 2003 Billboard Music Awards, various episodes of ABC's NYPD Blue and CBS's The Early Show-indecent and profane. The FCC's Remand Order reaffirmed its ban on single expletives.

On appeal, the 2<sup>nd</sup> Circuit Court of Appeals struck down the indecency policy as arbitrary and capricious, but did not address the constitutional issues. The Supreme Court upheld the FCC's fleeting expletives policy indicating that the FCC could reasonably conclude that the pervasiveness of foul language and the coarsening of public entertainment in other media such as cable justify more stringent regulation of broadcast programs so as to give conscientious parents a relatively safe haven for their children. The Supreme Court did not address the networks' constitutional arguments and remanded it to the 2<sup>nd</sup> Circuit to consider the constitutional arguments. *Fox Television Stations, Inc. et al. vs. FCC et al.* 613 F.3d 317 (2<sup>nd</sup> Cir. 2010).

On July 13, 2010, the Second Circuit invalidated the FCC's entire indecency policy on First Amendment grounds stating that the policy was unconstitutionally vague. The Court noted that under the current policy broadcasters must choose between not airing or censoring controversial programs and risking massive fines or possibly even loss of their licenses. As a result, the policy has chilled protected speech. On August 27, 2010, the FCC petitioned the 2<sup>nd</sup> Circuit Court of Appeals to reconsider its decision arguing that the ruling threatens to have a wide-ranging adverse impact on the FCC's ability to enforce federal statutory restrictions on the broadcast of indecent material.

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## STATE-ISSUED CERTIFICATES OF FRANCHISE AUTHORITY

As of October 5, 2010, the South Carolina Secretary of State has issued the following certificates. New areas/certificates are highlighted in red:

ATLANTIC BROADBAND.....	Aiken, Aiken County, Allendale, Bamberg, Bamberg County, Barnwell, Burnetown, Denmark, Fairfax, Jackson, New Ellenton, Snelling, Williston
BALDWIN COUNTY INTERNET/ DSSI SERVICE, LLC.....	Beaufort County, Charleston County, Greenville, Greenville County
BELLSOUTH TELECOMMUNICATIONS, ... INC. d/b/a AT&T SOUTH CAROLINA	Anderson, Anderson County, Arcadia Lakes, <b>Berkeley County</b> , Blythewood, Calhoun County, Camden, Cayce, Central, <b>Charleston</b> , Charleston County, Clemson, Columbia, <b>Cordova</b> , <b>Dorchester County</b> , Duncan, Easley, Elgin, <b>Folly Beach</b> , Forest Acres, Gaston, <b>Goose Creek</b> , Greenville, Greenville County, Greer, <b>Hanahan</b> , Hollywood, Irmo, <b>James Island</b> , <b>Kiawah Island</b> , Kershaw County, Lexington County, Liberty, <b>Lincolnton</b> , Lyman, Mauldin, McConnells, <b>Mount Pleasant</b> , <b>North Charleston</b> , Oconee County, <b>Orangeburg</b> , <b>Orangeburg County</b> , Pickens, Pickens County, Pine Ridge, <b>Ravenel</b> , Richland County, Seneca, Spartanburg, Spartanburg County, Springdale, <b>Summerville</b> , West Columbia, York, York County
BERKELEY CABLE TV, INC.....	Berkeley County, Harleyville, Jamestown, Moncks Corner, St. Stephens
BROADBAND EXPERIENCE..... d/b/a FAMILY VIEW CABLEVISION	Central, Clemson, Pickens County
CAROLINA TELECOM SERVICES.....	Hickory Grove, Sharon
CATAWBA, INC.....	Rock Hill
CHARTER COMMUNICATIONS, LLC.....	Abbeville, <b>Chesnee</b> , Clinton, Easley, Greer, Greenville, Greenville County, Honea Path, Laurens, Mauldin, Newberry County, Oconee County, Pelzer, Pickens County, Salem, Six Mile, Spartanburg, Spartanburg County, Starr, Travelers Rest, Union, West Pelzer, Whitmire, Woodruff
CHESNEE COMMUNICATIONS.....	Cherokee County, Chesnee, Spartanburg County
<b>CHESTER COMMUNICATIONS, LLC DBA TRUVISTA.....</b>	<b>Chester (effective 11/1/10)</b>
COMCAST OF CAROLINA.....	Edisto Beach, Goose Creek, Hampton County, Hanahan, Isle of Palms, James Island, <b>Sullivan's Island</b> , Summerville
COMCAST OF GEORGIA/SC II.....	Beaufort County, Charleston, Edisto Beach, Hampton County, Hollywood, Meggett, Town of Seabrook Island
COMCAST OF GEORGIA/SC INC.....	Aiken County, Burnetown, Hampton County
COMCAST OF THE SOUTH.....	Calhoun Falls, Prosperity
ELK COMMUNICATIONS, LLC.....	Gaston, Lexington County, Swansea
FALCON VIDEO COMMUNICATIONS.....	Beaufort, Beaufort County
FARMERS TELEPHONE..... COOPERATIVE	Andrews, Clarendon County, Coward, Florence County, Georgetown County, Greeleyville, Lane, Lee County, Lynchburg, Mayesville, Paxville, Pinewood, Scranton, Sumter, Sumter County, Turbeville, Williamsburg County
FTC DIVERSIFIED SERVICES, INC.....	Bishopville, Clarendon County, Florence County, Georgetown County, Kingstree, Lake City, Lee County, Manning, Olanta, Summerton, Sumter, Sumter County, Williamsburg County

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**State-Issued Certificates of Franchise Authority *continued...***

GREAT FALLS CABLEVISION, INC..... d/b/a TRUVISTA	Town of Great Falls
HARGRAY CATV CO., INC.....	Bluffton, Estill, Hampton, Hardeeville, Hilton Head Island, Jasper County
HOME TELECOM.....	Charleston, Goose Creek, North Charleston
HORRY TELEPHONE COOPERATIVE.....	Conway, Surfside Beach
HPI ACQUISITION CO., LLC.....	Anderson, <b>Anderson County</b> , Due West
MANAGED SERVICES INC.....	Berkeley County, Horry County, Jasper County, Richland County
METROCAST COMMUNICATIONS..... OF MISSISSIPPI, LLC	Marlboro County, McColl
NORTHLAND CABLE TELEVISION.....	Laurens County, Pendleton, Pickens County, Seneca, West Union
PALMETTO CABLE TV, LLC.....	Fort Mill, Lancaster County
PALMETTO RURAL TELEPHONE..... COOPERATIVE, INC.	Bamberg County, Colleton County, Cottageville, Lodge, Smoaks, Walterboro, Williams
PASSPORT COMMUNICATIONS.....	Fort Mill
PINE TREE CABLEVISION.....	Aiken County, Bamberg County, Barnwell County, Bethune, Cottageville, Gaston, Jefferson, Kershaw County, Lamar, McBee, Orangeburg County, Perry, Salley, Wagener
PBT COMMUNICATIONS.....	Gilbert, Lexington, Lexington County, Pelion, Summit, Wagener
RST COMMUNICATIONS, INC.....	Gaffney
TECHCORE CONSULTANTS II.....	Bowman, Dorchester County, Earhardt, Eutawville, Holly Hill, Orangeburg County
TIME WARNER CABLE, LLC.....	Andrews, Charleston County, Georgetown County, Summerville
TIME WARNER ENTERTAINMENT..... ADVANCE/NEWHOUSE PRTSHP	Cayce, Columbia, Conway, Florence County, Forest Acres, Georgetown County, Hemingway, Lane, Lee County, Lexington, Lexington County, Myrtle Beach, Myrtle Beach Air Force Base, Orangeburg, Orangeburg County, Pamplico, Quinby, Richland County, Springdale, Surfside Beach, Sumter, Sumter County, West Columbia
TIME WARNER ENTERTAINMENT ADVANCE/NEWHOUSE PTRSHP..... -CHARLOTTE DIVISION	Clover, Fort Mill, York County
TIME WARNER NY CABLE, LLC.....	Bluffton, Darlington County, Dillon County, , Georgetown County, Goose Creek, Hardeeville, Hilton Head, Jasper County, Lakeview, Marion County, <b>McBee, Moncks Corner</b> , Nichols
VIDEO VISION, INC.....	Fort Lawn, Heath Springs, Kershaw, Lancaster County
YRT2, INC.....	Berkeley County, Columbia, Dorchester County, Greenville, Greenville County, Horry County, Myrtle Beach, Summerville

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## SOUTH CAROLINA LEGISLATIVE UPDATE



The second session of the General Assembly adjourned a veto session on June 29, 2010, ending this legislative session. Prefiling of bills for the upcoming term will be in mid-November for the House and early December for the Senate.

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## FCC BRIEFS

The following documents can be downloaded from the FCC's website at <http://www.fcc.gov>

On September 30, 2010, the FCC released its *Trends in Telephone Service* report which summarizes information s about the size, growth and development of the telephone industry including data on market share, minutes of calling, number of lines and telephone subscribership. It also provides information about access charges, consumer expenditures, infrastructure, local competition, telephone rates, toll providers, and universal service support. [www.fcc.gov/wcb/stats](http://www.fcc.gov/wcb/stats).

On September 23, 2010, the FCC took steps to free up vacant airwaves between TV channels or white spaces to unleash a host of new technologies such as "super Wi-Fi."

On September 16, 2010, the FCC published the *Statistics of Communications Common Carriers* which contains information on industry structure, financial and operating data relating to telephone carriers, historical financial and operating statistics and data on industry trends. [www.fcc.gov/wcb/stats](http://www.fcc.gov/wcb/stats).

On September 10, 2010, the FCC issued its *Annual Telecommunications Industry Revenues 2008* report. Telecom revenues decreased from \$299 billion to \$297 billion while wireless revenues grew 3%. Revenues for ILECs decreased from \$94 to \$90 billion while CLECs reported an 11% growth. [www.fcc.gov/wcb/stats](http://www.fcc.gov/wcb/stats).

On September 3, 2010, the FCC released the *Local Telephone Competition* report as of June 30, 2009. Interconnected VoIP subscriptions increased 10% during the first six months of 2009. [www.fcc.gov/wcb/stats](http://www.fcc.gov/wcb/stats).

On September 2, 2010, the FCC released *Internet Access Services: Status as of June 2009* report which includes detailed data on the number of Internet connections at speeds that approximate the national broadband availability target recommended by the National Broadband Plan. [www.fcc.gov/wcb/stats](http://www.fcc.gov/wcb/stats).

On August 31, 2010, the FCC released its report on telephone subscribership levels as of March 2010. The subscribership penetration rate was 96% which is the highest reported rate since the Current Population Survey began collecting the data. [www.fcc.gov/wcb/stats](http://www.fcc.gov/wcb/stats).

On August 13, 2010, the FCC released its report on inquiries and complaints during the first quarter of 2010. Complaints in the Radio and Television Broadcasting category increased more than 1259%. Cable and Satellite Services increased 9%. [www.fcc.gov/cgb/quarter/welcome.html](http://www.fcc.gov/cgb/quarter/welcome.html).

On July 20, 2010, the FCC issued its 6<sup>th</sup> *Broadband Deployment Report* which indicated that between 14 and 24 million Americans still lack access to broadband, and the immediate prospects for deployment to them are bleak. (FCC 10-129)