

## RESOLUTION NO. CR-07-06

### A RESOLUTION TO APPROVE AN APPLICATION FOR FRANCHISE AUTHORITY CONSENT TO THE ASSIGNMENT OF THE CABLE TELEVISION FRANCHISE FROM WIDE OPEN WEST, OHIO, LLC (WOW) TO RACECAR ACQUISITION, LLC

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WHEREAS, the City of Grove City has been certified as a franchising authority by the Federal Communications Commission (FCC) and has the authority to grant cable television franchises in the City in accordance with the laws of the United States, the rules and regulations of the FCC, the laws of the State of Ohio, and the City' Code of Ordinances; and

WHEREAS, pursuant to Ordinance C-13-98, the City, on March 16, 1998, granted a non-exclusive franchise (Franchise) to Americast for the construction, operation and maintenance of a cable television system (System) in the City for a period of fifteen (15) years; and

WHEREAS, pursuant to Resolution No. CR-67-01, the City, on October 1, 2001, consented to the transfer of the Cable Television Franchise from Ameritech new Media, Inc., DBA Americast, to Wide Open West, Ohio, LLC (WOW); and

WHEREAS, WOW and Racecar Acquisition, LLC jointly submitted to the City their application on FCC Form 394, Application for Franchise Authority Consent to Assignment of the Cable Television Franchise (Application), dated December 22, 2005, requesting that the City acknowledge receipt of, and approve the Application; and

WHEREAS, Wide Open West Holdings, LLC (WHO) and Racecar Acquisition, LLC have entered into an Agreement and Plan of Merger dated December 13, 2005 for the merger of WOW with Racecar Acquisition, LLC; and

WHEREAS, The Agreement and Plan of Merger will result in Racecar Acquisition, LLC assuming all the rights and obligations of WOW; and

WHEREAS, Pursuant to Section 3.10 of the Franchise, the City's approval is required prior to the assignment or transfer of control of a cable television franchise providing cable television service in the City; and

WHEREAS, based on a review and examination of the Application, the City is willing to grant its approval of the proposed Assignment of the Franchise, subject to certain conditions which are necessary to protect the public interest, and without which the City would not approve the Assignment of the Franchise.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. The proposed Application is approved subject to the following conditions:

- a. WOW acknowledges and agrees that WOW continues to be obligated to fulfill all past, present, continuing and future commitments, duties, and obligations of the cable operator as set forth in the Franchise; and
- b. WOW agrees to comply with all obligations under the Franchise and applicable law; and
- c. WOW represents and warrants that it will be fully capable to meet the legal, financial and technical obligations under the Franchise and continue to operate the cable television system in the City.

SECTION 2. Failure to meet the conditions specified in Section 1 by WOW prior to any subsequent transfer or assignment of the Franchise shall be cause for the City to exercise any and all appropriate remedies under the Franchise.

SECTION 3. Even if all the conditions set forth in section 1 are satisfied, this approval shall be void and of no force or effect if:

- a. The Assignment of the franchise is consummated on terms substantially different from those described in the Application and its exhibits; or
- b. Any representations provided in the Application to the City regarding the Assignment of the Franchise are substantially incomplete or materially misleading.

SECTION 4. This approving resolution shall not be construed to:

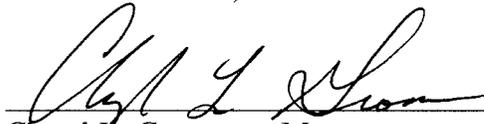
- a. Prejudice or limit any past, present or future rights the City may have to review the technical, legal financial and character qualifications of the cable operator during any Franchise renewal proceedings; or
- b. Waive any of the City's rights with respect to Wow's and/or Racecar Acquisition, LLC's compliance with the terms, conditions, requirements, and obligations set forth in the Franchise, including the City's right to compel WOW and/or Racecar Acquisition, LLC to comply with the lawful provisions of the Franchise.

SECTION 5. The City Administrator, or his designee, is authorized to submit notice of such approval to the FCC.

SECTION 6. This resolution shall take effect at the earliest opportunity allowed by law.



Richard D. Lester, President of Council



Cheryl L. Grossman, Mayor

Passed: 02-06-06  
Effective: 02-06-06

Attest:



Tami K. Kelly, MMC, Clerk of Council

I Certify that this resolution is correct as to form.



Thomas R. Clark, Director of Law

Federal Communications Commission  
Washington, DC 20554

Approved By OMB  
3060-0573

FCC 394

APPLICATION FOR FRANCHISE AUTHORITY  
CONSENT TO ASSIGNMENT OR TRANSFER OF CONTROL  
OF CABLE TELEVISION FRANCHISE

CR-07-06

FOR FRANCHISE AUTHORITY USE ONLY

SECTION I. GENERAL INFORMATION

DATE December 22, 2005	1. Community Unit Identification Number: OH2590
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2. Application for:  Assignment of Franchise  Transfer of Control

3. Franchising Authority: Grove City, OH
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4. Identify community where the system/franchise that is the subject of the assignment or transfer of control is located:  Grove City, OH
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5. Date system was acquired or (for system's constructed by the transferor/assignor) the date on which service was provided to the first subscriber in the franchise area:	November 30, 2001
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6. Proposed effective date of closing of the transaction assigning or transferring ownership of the system to transferee/assignee:	April 30, 2006
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7. Attach as an Exhibit a schedule of any and all additional information or material filed with this application that is identified in the franchise as required to be provided to the franchising authority when requesting its approval of the type of transaction that is the subject of this application.

Exhibit No.  
1

PART I - TRANSFEROR/ASSIGNOR

1. Indicate the name, mailing address, and telephone number of the transferor/assignor.

Legal name of Transferor/Assignor (if individual, list last name first) Wide Open West Holdings, LLC			
Assumed name used for doing business (if any) WOW! Internet, Cable and Phone			
Mailing street address or P.O. Box 7807 East Peakview Avenue, Suite 400			
City Englewood	State CO	ZIP Code 80111	Telephone No. (include area code) (720) 479-3500

2. (a) Attach as an Exhibit a copy of the contract or agreement that provides for the assignment or transfer of control (including any exhibits or schedules thereto necessary in order to understand the terms thereof). If there is only an oral agreement, reduce the terms to writing and attach. (Confidential trade, business, pricing or marketing information, or other information not otherwise publicly available, may be redacted).

Exhibit No.  
2

(b) Does the contract submitted in response to (a) above embody the full and complete agreement between the transferor/assignor and the transferee/assignee?

Yes  No

If No, explain in an Exhibit.

Exhibit No.  
2

## PART II - TRANSFEREE/ASSIGNEE

1. (a) Indicate the name, mailing address, and telephone number of the transferee/assignee.

Legal name of Transferee/Assignee (if individual, list last name first) Iacecar Acquisition, LLC			
Assumed name used for doing business (if any)			
Mailing street address or P.O. Box 65 East 55th Street, 18th Floor			
City New York	State NY	ZIP Code 10022	Telephone No. (include area code) (212) 593-6958

(b) Indicate the name, mailing address, and telephone number of person to contact, if other than transferee/assignee.

Name of contact person (list last name first) Elizabeth A. Hammond			
Firm or company name (if any) Drinker Biddle & Reath LLP			
Mailing street address or P.O. Box 1500 K Street, NW, Suite 1100			
City Washington	State DC	ZIP Code 20005	Telephone No. (include area code) (202) 842-8843

(c) Attach as an Exhibit the name, mailing address, and telephone number of each additional person who should be contacted, if any.

Exhibit No. 3
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(d) Indicate the address where the system's records will be maintained.

Street Address 3675 Corporate Drive		
City Columbus	State OH	ZIP Code 43231

2. Indicate on an attached exhibit any plans to change the current terms and conditions of service and operations of the system as a consequence of the transaction for which approval is sought.

Exhibit No. 4
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**SECTION II. TRANSFEREE'S/ASSIGNEE'S LEGAL QUALIFICATIONS**

1. Transferee/Assignee is:

<input type="checkbox"/> Corporation	a. Jurisdiction of incorporation: b. Date of incorporation: c. For profit or not-for-profit:	d. Name and address of registered agent in jurisdiction:
<input type="checkbox"/> Limited Partnership	a. Jurisdiction in which formed: b. Date of formation:	c. Name and address of registered agent in jurisdiction:
<input type="checkbox"/> General Partnership	a. Jurisdiction whose laws govern formation:	b. Date of formation:
<input type="checkbox"/> Individual		
<input checked="" type="checkbox"/> Other. Describe in an Exhibit.	Exhibit No. <b>5</b>	

2. List the transferee/assignee, and, if the transferee/assignee is not a natural person, each of its officers, directors, stockholders beneficially holding more than 5% of the outstanding voting shares, general partners, and limited partners holding an equity interest of more than 5%. Use only one column for each individual or entity. Attach additional pages if necessary. (Read carefully - the lettered items below refer to corresponding lines in the following table.)

- (a) Name, residence, occupation or principal business, and principal place of business. (If other than an individual, also show name, address and citizenship of natural person authorized to vote the voting securities of the applicant that it holds.) List the applicant first, officers, next, then directors and, thereafter, remaining stockholders and/or partners.
- (b) Citizenship.
- (c) Relationship to the transferee/assignee (e.g., officer, director, etc.).
- (d) Number of shares or nature of partnership interest.
- (e) Number of votes.
- (f) Percentage of votes.

(a) Racecar Acquisition, LLC 65 East 55th St., 18th Fl. New York, NY 10022	See attached	See attached
(b) Delaware		
(c) Applicant		
(d)		
(e)		
(f)		

## Section II, question 2 cont'd:

(a) David Burgstahler 61 East 86 <sup>th</sup> Street, Apt. 24 New York, NY 10028  Partner of Avista Capital Partners  Racecar Acquisition, LLC 65 East 55th St., 18th Fl. New York, NY 10022	(a) Benjamin Silbert 13 West 77 <sup>th</sup> Street, Apt. 2 New York, NY 10024  General Counsel of Avista Capital Partners  Racecar Acquisition, LLC 65 East 55th St., 18th Fl. New York, NY 10022
(b) US	(b) US
(c) President & Director	(c) Vice President
(d) 0.00%	(d) 0.00%
(e) 0.00%	(e) 0.00%
(f) 0.00%	(f) 0.00%

(a) Jason Mozingo 2 Pasture Lane Darien, CT 06820  Principal of Avista Capital Partners  Racecar Acquisition, LLC 65 East 55th St., 18th Fl. New York, NY 10022	(a) James Finkelstein 2 Park Avenue, Suite 1405 New York, NY 10016  Partner of Avista Capital Partners  Racecar Acquisition, LLC 65 East 55th St., 18th Fl. New York, NY 10022
(b) US	(b) US
(c) Director	(c) Director
(d) 0.00%	(d) 0.00%
(e) 0.00%	(e) 0.00%
(f) 0.00%	(f) 0.00%

(a) Brendan Scollans 250 East 65 <sup>th</sup> Street, Apt. 11B New York, NY 10021  Vice President of Avista Capital Partners  Racecar Acquisition, LLC 65 East 55th St., 18th Fl. New York, NY 10022	(a) Colleen Abdoulah CEO of WOW 7807 East Peakview Ave., Ste. 400 Englewood, CO 80111
(b) US	(b) US and Canada
(c) Director	(c) Director & Member of Racecar Holdings, LLC <sup>1</sup>
(d) 0.00%	(d) See footnote 1
(e) 0.00%	(e) See footnote 1
(f) 0.00%	(f) See footnote 1

<sup>1</sup> The management group (of 25 people) will collectively own approximately four percent (4%) of the equity of Racecar Holdings, LLC and 6.3 percent of the voting interests. Ms. Abdoulah will become a Director of Racecar Acquisition, LLC at the closing of this transaction.

(a) Racecar Holdings, LLC 65 East 55th St., 18th Fl. New York, NY 10022	(a) The Northwestern Mutual Life Insurance Company <sup>2</sup> 720 East Wisconsin Avenue Milwaukee WI 53202 Authorized person: Tim Collins
(b) Delaware	(b) Wisconsin
(c) Sole Member of Racecar Acquisition, LLC	(c) Co-investor in Racecar Holdings, LLC
(d) 100%	(d) 35.3% membership interest
(e) 100% of the membership interests	(e) 0.00%
(f) 100%	(f) 0.00%

(a) Thompson Dean 550 Park Avenue, Apt. 10E New York, NY 10021  Co-Managing Partner of Avista Avista Capital Partners 65 East 55th St., 18th Fl. New York, NY 10022	(a) Steven Webster 1908 River Oaks Blvd Houston, TX 77019  Co-Managing Partner of Avista Avista Capital Partners 65 East 55th St., 18th Fl. New York, NY 10022
(b) US	(b) US
(c) See Exhibit 7	(c) See Exhibit 7
(d) See Exhibit 7	(d) See Exhibit 7
(e) See Exhibit 7	(e) See Exhibit 7
(f) See Exhibit 7	(f) See Exhibit 7

(a) Avista Capital Partners, L.P. 65 East 55th St., 18th Fl. New York, NY 10022	(a) To be determined <sup>3</sup>
(b) Delaware	
(c) Controlling Member of Racecar Holdings, LLC	
(d) 56.5% membership interest	
(e) Not Applicable	
(f) 93.7% voting interests	

<sup>2</sup> The Northwestern Mutual Life Insurance Company for its Group Annuity Separate Account, an affiliate of The Northwestern Mutual Life Insurance Company (the "Company"), will hold less than five percent of total investment held by the Company.

<sup>3</sup> Two additional outside directors will be added to the Board at the Closing.

3. If the applicant is a corporation or a limited partnership, is the transferee/assignee formed under the laws of, or duly qualified to transact business in, the State or other jurisdiction in which the system operates?

Yes  No

If the answer is No, explain in an Exhibit.

Exhibit No.  
6

4. Has the transferee/assignee had any interest in or in connection with an applicant which has been dismissed or denied by any franchise authority?

Yes  No

If the answer is Yes, describe circumstances in an Exhibit.

Exhibit No.  
N/A

5. Has an adverse finding been made or an adverse final action been taken by any court or administrative body with respect to the transferee/assignee in a civil, criminal or administrative proceeding, brought under the provisions of any law or regulation related to the following: any felony; revocation, suspension or involuntary transfer of any authorization (including cable franchises) to provide video programming services; mass media related antitrust or unfair competition; fraudulent statements to another government unit; or employment discrimination?

Yes  No

If the answer is Yes, attach as an Exhibit a full description of the persons and matter(s) involved, including an identification of any court or administrative body and any proceeding (by dates and file numbers, if applicable), and the disposition of such proceeding.

Exhibit No.  
N/A

6. Are there any documents, instruments, contracts or understandings relating to ownership or future ownership rights with respect to any attributable interest as described in Question 2 (including, but not limited to, non-voting stock interests, beneficial stock ownership interests, options, warrants, debentures)?

Yes  No

If Yes, provide particulars in an Exhibit.

Exhibit No.  
7

7. Do documents, instruments, agreements or understandings for the pledge of stock of the transferee/assignee, as security for loans or contractual performance, provide that: (a) voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of any ownership rights by a purchaser at a sale described in (b), any prior consent of the FCC and/or of the franchising authority, if required pursuant to federal, state or local law or pursuant to the terms of the franchise agreement will be obtained?

Yes  No

If No, attach as an Exhibit a full explanation.

Exhibit No.  
8

**SECTION III. TRANSFEREE'S/ASSIGNEE'S FINANCIAL QUALIFICATIONS**

1. The transferee/assignee certifies that it has sufficient net liquid assets on hand or available from committed resources to consummate the transaction and operate the facilities for three months.

Yes  No

2. Attach as an Exhibit the most recent financial statements, prepared in accordance with generally accepted accounting principles, including a balance sheet and income statement for at least one full year, for the transferee/assignee or parent entity that has been prepared in the ordinary course of business, if any such financial statements are routinely prepared. Such statements, if not otherwise publicly available, may be marked CONFIDENTIAL and will be maintained as confidential by the franchise authority and its agents to the extent permissible under local law.

Exhibit No.  
9

**SECTION IV. TRANSFEREE'S/ASSIGNEE'S TECHNICAL QUALIFICATIONS**

Set forth in an Exhibit a narrative account of the transferee's/assignee's technical qualifications, experience and expertise regarding cable television systems, including, but not limited to, summary information about appropriate management personnel that will be involved in the system's management and operations. The transferee/assignee may, but need not, list a representative sample of cable systems currently or formerly owned or operated.

Exhibit No.  
10

**SECTION V. CERTIFICATIONS**

**Part I - Transferor/Assignor**

All the statements made in the application and attached exhibits are considered material representations, and all the Exhibits are a material part hereof and are incorporated herein as if set out in full in the application.

I CERTIFY that the statements in this application are true, complete and correct to the best of my knowledge and belief and are made in good faith.	Signature 
	Date
WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001.	Print full name D. Craig Martin, General Counsel & Secretary
	Check appropriate classification: <input type="checkbox"/> Individual <input type="checkbox"/> General Partner <input type="checkbox"/> Corporate Officer (Indicate Title) <input checked="" type="checkbox"/> Other. Explain: LLC Officer

**Part II - Transferee/Assignee**

All the statements made in the application and attached Exhibits are considered material representations, and all the Exhibits are a material part hereof and are incorporated herein as if set out in full in the application.

The transferee/assignee certifies that he/she:

- (a) Has a current copy of the FCC's Rules governing cable television systems.
- (b) Has a current copy of the franchise that is the subject of this application, and of any applicable state laws or local ordinances and related regulations.
- (c) Will use its best efforts to comply with the terms of the franchise and applicable state laws or local ordinances and related regulations, and to effect changes, as promptly as practicable, in the operation system, if any changes are necessary to cure any violations thereof or defaults thereunder presently in effect or ongoing.

I CERTIFY that the statements in this application are true, complete and correct to the best of my knowledge and belief and are made in good faith.	Signature 
	Date
WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001.	Print full name Benjamin Silbert, Vice President
	Check appropriate classification: <input type="checkbox"/> Individual <input type="checkbox"/> General Partner <input type="checkbox"/> Corporate Officer (Indicate Title) <input checked="" type="checkbox"/> Other. Explain: Vice Pres. of LLC