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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket No. 92-260
	)	
Cable Home Wiring	)	

REPLY OF BELL ATLANTIC[1]

The comments in this proceeding confirm that cable's control of broadband access into the home is a barrier to entry by competing broadband services, and that cable incumbents have used this bottleneck to stifle competition. In fact, cable incumbents have gone so far as to threaten consumers with criminal charges if they use existing cable wiring to obtain competing services.[2]

In addition, a wide range of commenters -- including independent designers and installers of premises wiring,[3]

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[1] The Bell Atlantic telephone companies ("Bell Atlantic") are The Bell Telephone Company of Pennsylvania, the four Chesapeake and Potomac telephone companies, The Diamond State Telephone Company and New Jersey Bell Telephone Company.

[2] See Comments of Wireless Cable Ass'n at 3-4; Comments of WJB-TV at 3-4; Comments of Amer. Publ. Power Ass'n at 11.

[3] Comments of Bldg. Ind. Consulting Serv. Int'l at 3-4 (adopt "uniform policy for all telecommunications wiring on the customer's premises, including both telephone and video delivery wiring").

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competing broadband service providers,[4] public interest groups,[5] equipment manufacturers,[6] the Secretary of Defense,[7] and local telephone companies[8] -- agree that the Commission should apply to cable the same rules that apply to telephone company inside wiring.

As these commenters recognize, consumer control over cable inside wiring -- regardless of whether a consumer has

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[4] Comments of the Wireless Cable Ass'n at 8 (telephone rules will "afford[] consumers what they really want -- the right to have alternative service providers utilize existing wiring"); Comments of Amer. Publ. Power Ass'n at 2 (telephone rules "would encourage competition in cable service"); Comments of Util. Tel. Council at 4-5 (telephone rules "provide an excellent model"); Comments of Liberty Cable at i ("homeowner must have absolute control over how home wiring is used, including which vendor of video services").

[5] Comments of Media Access Project at 2-3 ("permit alternative providers to connect to cable wiring at the minimum point of entry into the home").

[6] Comments of Electronic Ind. Ass'n at 8 ("having introduced competition and deregulation to [telephone wiring], the Commission should develop similar policies for [cable wiring]"); Comments of Multiplex Technology at 5 ("follow[] the same basic approach to cable wiring...[as for] customer premise inside telephone wiring").

[7] Comments of Sec. of Defense at 3 (give premises owner "authority to 'remove, replace, rearrange, or maintain' cable inside wiring").

[8] Comments of Pacific Companies at 1 ("similar rules should be imposed for coaxial cable as are in effect for telephone inside wire"); Comments of BellSouth at i ("[adopt] cable home wiring rules which closely parallel the...[telephone] inside wire...rules"); Comments of USTA at 2 ("maximize the procompetitive implications of...inside wire policies...[and] be consistent in the application of such policies").

terminated cable service -- will promote competition in the installation and maintenance of cable wiring and in the delivery of broadband services. It will also establish parity between the telephone and cable industries as cable operators increasingly provide telephone services over their wires.

The arguments of the incumbent cable monopolists to the contrary are without merit.

1. The Commission Should Prescribe Rules That Apply Whether Or Not Consumers Terminate Cable Service

The cable incumbents are wrong that the Commission lacks authority to prescribe rules for cable inside wiring except when consumers terminate service.[9] The 1992 Cable Act requires the Commission to determine the disposition of cable wiring when a customer terminates service.[10] Contrary to cable's claims, however, the Act does not prohibit the Commission from adopting rules that apply in other circumstances as well.[11]

In addition, claims that the Commission lacks jurisdiction over cable inside wiring prior to termination of service are wrong for two reasons. First, the Communications Act

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[9] See, e.g., Comments of Allen's TV Cable, et al. at 5.

[10] See Cable Television Consumer Protection and Competition Act of 1992, §16(d) ("1992 Act").

[11] Id.

gives the Commission broad authority to prescribe regulations governing the provision of "all interstate ... communications by wire or radio" including cable TV services.[12] This is the same authority the Commission relied on to prescribe rules for telephone inside wiring and CPE.[13]

Second, the 1992 Act affirmatively requires the Commission to establish regulations governing rates for "equipment used by subscribers to receive the basic service tier."[14] The equipment to be covered includes "internal wiring of private homes and for multiple dwelling units."[15]

The Commission should satisfy this requirement by requiring cable operators to provide customer premises wiring on an unbundled competitive basis and by establishing consumer control over cable inside wiring -- just as it has done for

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[12] United States v. Southwestern Cable Co., 392 U.S. 157, 178 (1968), citing 47 U.S.C. 152(a).

[13] See, e.g., Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384, 432 (1980).

[14] 1992 Act, § 3(a).

[15] H.R. Rep. No. 628, 102d Cong., 2d Sess., at 83 June 28, 1991).

telephone inside wiring.[16] As in the case of telephone wiring, these rules should apply regardless of whether customers have terminated service.[17]

2. There Is No Basis To Apply Different Rules To Cable Than To Telephone Wiring

Attempts by the cable incumbents to distinguish cable inside wiring from telephone wiring are unavailing.

First, the rules adopted here should apply equally to existing cable inside wiring and to new installations; they should not be limited to wiring installed after the rules are adopted.[18] As with telephone wiring, consumers should be able to receive competing broadband and wire maintenance services regardless of whether the wiring is already in place or is a new installation.[19]

Second, consumers and competing service providers should not be required to purchase existing cable wiring or to

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[16] Comments of Bell Atlantic at 4-5.

[17] Id. To establish parity between the two industries, the Commission should also establish cost allocation and affiliate transaction rules such as those that apply to telephone companies' non-regulated services. See 47 C.F.R. §§ 64.901, 64.902, 32.27.

[18] See, e.g., Comments of NCTA at 11.

[19] Over 60 percent of U.S. households already subscribe to cable, and limiting the rules to new installations would deny the majority of consumers the benefits of competition. See Video Dial Tone Order, 7 FCC Rcd 5781, n.352 (1992).

pay for its use.[20] Like telephone companies, cable operators should be required to amortize any part of the cost of existing wiring they can show is undepreciated and unrecovered, and expense the cost of new installations.[21]

Third, the Commission should define the demarcation point beyond which the premises owner controls the wiring consistently for both cable operators and telephone companies. Specifically, the demarcation point should be the minimum point of entry into the home or building.[22]

Fourth, concerns about signal leakage on the customer's premises should be addressed by prescribing technical standards that must be met by manufacturers and installers of cable wiring. This is how the Commission has addressed similar concerns for telephone wiring and other CPE.[23]

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[20] See Detariffing the Installation and Maintenance of Inside Wiring, CC Dkt 79-105, Mem. Op. and Order at 21 (released Nov. 21, 1986).

[21] See Detariffing, etc, CC Dkt 79-105, Second Report and Order at 2-3 (released Feb. 24, 1986).

[22] See Review of Sections 68.104 and 68.213 of the Commission's Rules, etc., CC Dkt 88-57, Report and Order at 24-25 (released June 14, 1990). In a multi-unit building, the building owner should control common wiring and individual unit owners should control wiring in their units. Where active electronics are located in the building (usually the basement), the premises owner should control the wiring from the output side of the electronics.

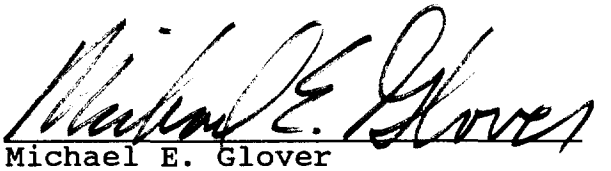
[23] See 47 C.F.R. § 68.300 et seq.

Fifth, concerns about signal theft arise whether or not consumers control their cable wiring, and should be addressed by means that do not stifle competition.[24]

CONCLUSION

The Commission should apply to cable inside wiring the same rules that already apply to telephone wiring.

Respectfully submitted,



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[24] TCI, for example, proposes that cable operators retain a reasonable right of access to check for signal leakage and signal theft. Comments of TCI at 11-12.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Reply of Bell Atlantic" was served this 15th day of December, 1992, by delivery thereof by first class mail, postage prepaid, to the parties on the attached list.

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