

Denver Area Educational
Telecommunications Consortium, Inc.

P.O. Box 6060
Boulder, CO 80306

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FEDERAL COMMUNICATIONS COMMISSION
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Memo

To: Donna R. Searcy, Secretary
Federal Communications Commission

Cc: Stephen A. Bailey, Esq.

From: John Schwartz, President

Date: December 8, 1992

Re: Ex Parte Presentation in Connection with MM Docket No. 92-258 ✓

On or about November 19, 1992, I met with Stephen A. Bailey of the Commission staff. I made an ex parte presentation to Mr. Bailey of the views of Denver Area Educational Telecommunications Consortium, Inc. (DAETC) regarding matters pending in MM Docket No. 92-258 regarding leased access channels.

Those views are represented in the attached comments submitted by DAETC in MM Docket No. 92-258. The focus of my conversation with Mr. Bailey was on the possible abuse of certifications cable operators may be able to require of leased access channel programmers.

I am hereby submitting an original and one copy of this memo to you, the Commission Secretary, as well as providing one copy to Mr. Bailey, pursuant to the requirements of Section 1.1206 of the Commission's Rules.

Noted/Forwarded
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DEC 14 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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DEC 14 1992

In the Matter of)
)
Implementation of Section 10 of the)
Cable Consumer Protection and)
Competition Act of 1992)
)
Indecent Programming and Other Types)
of Materials on Cable Access Channels)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
MM Docket No. 92-258

COMMENTS OF
DENVER AREA EDUCATIONAL TELECOMMUNICATIONS CONSORTIUM, INC.
ON NOTICE OF PROPOSED RULE MAKING

Denver Area Educational Telecommunications Consortium, Inc. ("DAETC") hereby submits the following comments regarding the policies and conditions proposed in the above-captioned proceeding.

I. Background on DAETC and its Program Service, The 90's Channel
Description of The 90's Channel

DAETC began programming leased access channels in late 1989.

DAETC's program service is known as The 90's Channel.¹ Although DAETC is non-profit, as are its cable programming efforts, The 90's Channel carries advertising. Since it is a "basic" program service, cable subscribers do not pay extra to receive the channel.

The 90's Channel carries a wide variety of material, much of it both controversial and otherwise unavailable to its viewers. It transmits documentaries and magazine programs on topics which have included: the Persian Gulf War, environmental contamination, racism, US-Cuba relations,

¹ Because The 90's Channel is DAETC's chief cable programming effort, herein the terms "The 90's Channel" and "DAETC" will be used essentially interchangeably.

union organizing, the status of recent immigrants, issues of concern to Native Americans, the Palestinian uprising, the US invasion of Panama, the Iran-contra scandal, urban gangs, prison conditions, art censorship, gay rights, prostitution, and AIDS.²

Most programs carried on The 90's Channel express opinions in addition to reporting facts. Most of the opinion is liberal. If The 90's Channel were a publication, then, it would have more in common with *The New Republic* than the *New York Times*.

Much of the material shown on The 90's Channel is recorded with portable video cameras in a verite or semi-verite style. The channel has carried more than 20 hours of programming from a source known as CamNet, which is described in several articles attached hereto as Appendix A. As Appendix A shows, critics and observers have often commented on the immediacy, unvarnished quality, and the "realness" of such portable video work.

The 90's Channel delivers its programming to cable systems on videotape, which is played on automated equipment. Generally, there are two fresh hours of programming each week, which are repeated around the clock. The channel's present equipment makes it difficult to run different programs at different times of day, since manual tape changing would be required. The "round the clock" nature of the programming has provoked complaints, since material oriented toward adults runs during daytime hours.³ The 90's Channel has voluntarily refrained from transmitting certain meritorious programming because we are not yet equipped to run it only during evening hours.

A small but important portion of The 90's Channel's programming deals with sexuality. Such material cannot be extricated from coverage of matters such as gay rights, AIDS, art censorship, and prostitution. Although the channel has never carried a full-length program that dealt with sexuality per

² Originally, the channel's programming consisted of *The 90's* magazine series. However, in 1991 the Public Broadcasting Service acquired all new episodes of *The 90's* on an exclusive basis, and the channel was forced to diversify its program sources.

³ This material deals with topics which are not readily comprehensible to children, but is in no way "adult" in the sense of pornography.

se, certain magazine segments have been about sex. Appendix B to these comments describes a number of program segments dealing with sexuality which The 90's Channel has carried.

As well, the unvarnished quality of certain programming on the channel means that it includes profanity; some common profane terms are of course sexual or excretory in character.

The 90's Channel pre-screens and carefully assesses the programs it carries. Our executives personally respond to viewer comments and complaints. We have had long, heartfelt conversations with viewers who were offended by material we transmitted. Although we carry programming which other networks would exclude, it is not because we have failed to weigh the implications carefully.

DAETC and the Difficult History of its Current Channel Lease

DAETC is a Colorado non-profit corporation formed in 1983. In 1986, DAETC entered into an agreement to lease full-time channels on eight cable systems operated by United Cable Television Corporation ("United").⁴ The term of this lease commenced in 1987.

In 1987, when DAETC was prepared to transmit programming pursuant to the channel lease with United, United refused to honor the lease. DAETC subsequently sued United in state court in Colorado, where both entities were headquartered. After a substantial period of litigation, DAETC and United entered into a settlement agreement by which United agreed to provide the leased access channels. The state court judge hearing the case accepted the settlement agreement by court order, and retains supervision of the matter to insure adherence to the terms of settlement.

After DAETC began programming the leased access channels, United was merged into United Artists, forming a company known as United Artists Entertainment ("UAE"). UAE was majority owned by Tele-Communications, Inc.

⁴ Those systems are: Alameda, CA; Scottsdale, AZ; Denver (suburbs), CO; Hacienda Heights and San Fernando Valley, CA (both in Los Angeles County); Vernon, CT; Baltimore, MD; and Oakland County, MI. Today, these cable systems serve over 500,000 subscribers. Pursuant to the channel lease agreement, DAETC's programming is to be carried on the lowest tier of service.

("TCI").

In September, 1990, the management of UAE's East San Fernando Valley system removed all 90's Channel programming from the air because it found the content to be objectionable. This removal was in direct violation of the quondam terms of Section 612 of the Communications Act, which at that time specified that cable operators were to exercise no control over the content of leased access channels. DAETC was forced to hire attorneys and threaten the resumption of litigation before it was able to regain editorial control over its leased channel on the East San Fernando Valley system.

Subsequently, TCI acquired 100% ownership of UAE, and assumed direct control over the systems on which DAETC leases channels.

The manager of at least one TCI system has made it clear that she wants The 90's Channel removed from the air as soon as possible. Several others have expressed concern about the fact that they have received viewer complaints about controversial programs. These managers aver, and DAETC agrees, that viewers are often unaware that the cable company cannot control the content of programs on leased access channels.

In August, 1992, DAETC received a letter from a TCI executive which claimed, erroneously, that the United-DAETC channel lease agreement was to expire on October 31, 1992. As a result, DAETC has filed a motion in Colorado state court seeking a ruling that, *inter alia*, the term of the applicable channel lease agreement will not expire until November 1, 1995, at the earliest.⁵ This matter is pending in Colorado state court, and The 90's Channel remains on the air. TCI and DAETC have entered into settlement negotiations, which are continuing.

DAETC's relationship with United and its successors has been consistently difficult. As well, Congress has found that cable operators have evinced a general pattern of hostility toward channel leasing. For instance, the Senate Report to the Cable Consumer Protection and Competition Act of 1992 ("1992 Act") states:

⁵ In addition, the United-DAETC channel lease provides for certain further renewal rights, at DAETC's option.

For irrefutable evidence of the failure of the leased access provision, one need look no further than the marketplace. Despite widespread instances of dropping of local broadcast stations and refusals to carry competitive program services, there is no evidence that excluded programmers have been successful in gaining access through Section 612...

...The cable operator is almost certain to have interests that clash with that of the programmer seeking to use leased access channels. If their interests were similar, the operator would have been more than willing to carry the programmer on regular cable channels. The operator thus has already decided for any number of reasons not to carry the programmer...⁶

II. Background on Indecency-Related Issues Posed by the 1992 Act

The Indecency Standard

Although indecency has been considerably litigated as a legal standard, it cannot be applied with unfailing accuracy.⁷ With regard to the indecency definition which the Commission proposes in its Notice of Proposed Rule Making ("NPRM") in the above-captioned matter, one has to assess what is "patently" offensive under "contemporary community standards."⁸ By the plain wording of the phrase "contemporary community standards," such standards can change over time. As well, they are likely to vary from community to community. Perhaps more importantly, different individuals in any given community will possess radically different notions of what is or is not patently offensive. Thus, generally without the benefit of quantitative methods, programmers have to determine the balance of opinion in a given locality at a given time with regard to innumerable specific program segments.⁹

⁶ Senate Report 102-92 at p. 30. Footnotes omitted. The first quoted paragraph is an excerpt from the testimony of Preston Padden contained in Senate Report 102-92.

⁷ In DAETC's view the indecency provisions of Section 612 of the 1992 Act are unconstitutional. However, since the Commission is required to implement these portions of the statute until they are stayed or overturned---an unknown period of time---DAETC has elected to participate in this proceeding.

⁸ NPRM at p. 4.

⁹ The task facing adjudicators is easier only in that they need examine many fewer programs, and thus can take much more time to study each instance of possible indecency. Under these circumstances, it is possible to undertake more extensive research into what is or is not patently offensive to various groups within a given community. Even with this advantage, the Commission itself on

Congressionally Mandated Rule Making Issues

The NPRM in the above-captioned proceeding responds to the requirement established by Section 612(j) of the 1992 Act. As noted in the NPRM at pp. 3-4, the Commission is required to adopt a definition of indecency, and to establish procedures for the handling of indecent material on leased access channels, if such material is not voluntarily prohibited by the cable system operator.

Section 612(j) in effect penalizes cable operators for not voluntarily banning indecent material in that they are required to designate a special scrambled channel. Most cable operators today perceive channel capacity to be scarce. DAETC believes very few cable operators will want to set aside an entire channel for indecent material carried by leased access programmers.

Important Issues Raised by Self-Effectuating Portions of the Statute

Two important provisions of the 1992 Act pertaining to indecency are self-effectuating. Both are contained within Section 612(h).

First, cable operators are authorized "to enforce prospectively a written and published policy of prohibiting programming that the cable operator reasonably believes describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards." As noted above, operators are in effect penalized for refraining from implementing such a policy, in that they are required to set aside a scrambled channel for indecent programming.

Second, as already quoted above, effective December 4, 1992 cable operators were given the power to refuse to carry a leased access program service, if in the judgment of the cable operator such service is "obscene, or is in conflict with community standards in that it is lewd, lascivious, filthy, or indecent or is otherwise unprotected by the Constitution of the

occasion has been forced to anguish over what is indecent; its adjudication of political advertising which contained gruesome images of aborted fetuses provides a recent example.

United States."¹⁰

Although these provisions are self-effectuating, DAETC believes that they are the most critical, in that DAETC expects that the vast majority of cable operators will adopt prospective policies and/or ban channels rather than be forced to reserve scrambled channels for indecent programming.

Other Pertinent Provisions of the 1992 Act

Section 612(c)(4)(a)(ii) of the 1992 Act authorizes the Commission to establish reasonable terms and conditions for the use of leased access channels. Section 612(c)(4)(a)(iii) authorizes the Commission to establish procedures for expedited resolution of disputes concerning leased access rates or carriage.

III. Over-broad Application of the Act by Cable Operators

As described above, self-effectuating portions of the 1992 Act delegate to cable operators important powers with regard to obscenity, indecency, and similar matters as they pertain to leased access.

However, unlike the Commission or the courts, cable operators are not neutral judges of indecency. DAETC's experience is that United and TCI have shown great resistance to the notion of leased access in general, and Congress came to a similar conclusion about the industry as a whole when it drafted the 1992 Act. UAE, and, to an extent, TCI, have been hostile toward controversial programming carried on DAETC's leased access channels. This animus is at least in part understandable, since viewers often believe that the cable company is responsible for programs that offend them.

As of this date, TCI has not supplied DAETC with a written policy pertaining to indecency on leased access channels, despite the fact that the statute authorizes TCI to implement one. DAETC has been given to understand that TCI does plan to adopt a policy on indecency in the future, however.

¹⁰ This provision also allows the operator to carry the service subject to conditions. Unlike the other Section 612(h) provisions herein described, there is no explicit standard of reasonableness required for the removal or attachment of conditions to leased access program services which the cable operator judges to be obscene, indecent, or possessing the other characteristics listed in the statute.

In the absence of a written policy, DAETC cannot be sure of TCI's stance. However, DAETC has been informed that highly and unnecessarily repressive policies are under consideration in the industry.

Under the contemplated policy described to DAETC by knowledgeable industry personnel, leased access programmers would be required to represent and warrant that their programming is not indecent. If even a single breach of representation and warranty occurs, the offending programmer would be taken off the air permanently, or its channel would be scrambled in the manner described in Section 612(j)(1). If a leased access program provider refuses to provide the required representation and warranty, the penalty would be the same as that for breach.

A policy imposing such draconian consequences for programmer error, if implemented by a cable operator, would go far beyond the intent of the statute to protect children from indecent programming.

In DAETC's estimation, the only certain way to avoid presenting indecency is to eschew not only that which is indecent, but also that which a hostile cable operator arguably could hold to be indecent in the most conservative locality served. Such an approach will inevitably lead to the blocking of meritorious programming which is not indecent.

Until the indecency provisions of the 1992 Act are enjoined or found to be unconstitutional, The 90's Channel is of course resolved to comply with the law. However, we are adamantly opposed to procedures which force us to self-censor all materials that approach the margins of indecency.

IV. DAETC's Recommendations for Commission Action

As noted in the NPRM, Commission has recognized its obligation to implement the Act in the most constitutionally permissible manner,¹¹ i.e. the least restrictive manner needed to protect children from indecency.¹²

¹¹ NPRM at p. 4.

¹² See *Sable Communications v. FCC*, 109 S.Ct. 2829, 2836 (1989).

Self-Effectuating Provisions of the 1992 Act

DAETC believes that, given the Commission's obligation to implement the 1992 Act in the most constitutionally permissible manner, it must establish rules and policies concerning the self-effectuating portions of the 1992 Act. Commission involvement in self-effectuating provisions will prove especially important, because vast majority of cable operators will adopt prospective policies pursuant to Section 612(h), mooted the rules adopted pursuant to Section 612(j). DAETC points out that among the triangle of interested parties---the cable operator, the channel lessee, and the Commission---only the Commission is neutral. The 90's Channel's experience establishes that cable operators cannot be relied upon to be impartial judges of indecency, and that such a state of affairs is natural since their paying subscribers hold them responsible for programming they find offensive.

At paragraph 11 of the NPRM, the Commission inquires as to whether cable operators can require certifications regarding indecency and/or obscenity from channel lessees.¹³

In these comments, DAETC has described circumstances in which certifications can be used in a highly and unnecessarily repressive manner. If the penalties associated with actual or putative breach of certification are severe, the result will go far beyond protecting children from indecency; rather, the effect will be to chill a wide variety of speech which is not indecent.

DAETC believes that the Commission should permit the use of certifications only under conditions which it prescribes and monitors, including the following:

- 1) The cable operator must be barred from removing, scrambling, or otherwise harshly penalizing a leased access programmer based on a single instance of indecency in breach of certification, or based on a small number of instances over time;

¹³ The Commission states: "We assume that cable operators who have a written and published policy of prohibiting indecent material may require such certifications." (NPRM at p. 6.)

2) Disputes over the indecency of individual programs or program segments between the cable operator and leased access programmer must be appealable to the Commission, or another neutral adjudicator;

3) If a cable operator wishes to remove, scramble, or otherwise harshly penalize a leased access programmer on the grounds of indecency, it must give advance notice of such a contemplated action to the programmer in writing, and the programmer must have the right to appeal such planned action to the Commission before it takes place.

DAETC believes that the above conditions are appropriate for two reasons. First, as already described, the cable operator cannot be relied upon as a neutral adjudicator of indecency. Second, DAETC observes that cable operators remain protected from liability under Section 638 of the Act for the transmission of indecent programming.

DAETC recognizes that cable operators' statutory immunity under Section 638 has been removed with respect to obscene material, and that obscenity is not constitutionally protected. However, DAETC believes that the above-listed protections should also apply to allegedly obscene material, since the 1992 Act allows operators to adopt policies refusing to transmit any individual program they believe to be obscene---at least until the question of obscenity is adjudicated as to that program. To permit harsher sanctions for breach of certification with regard to obscenity invites operators to abuse their discretion by branding objectionable content obscene rather than indecent.¹⁴

Further, DAETC believes that because the Commission now has jurisdiction over the rates, terms, and conditions pursuant to which leased access channels are provided, it will inevitably become the forum for disputes between programmers and operators about indecency, obscenity, and related content issues affecting carriage. DAETC believes that the Commission should adopt

¹⁴ There is little reason to believe that such a regime is so lax as to encourage obscenity on leased access channels. Leased access programmers are subject to criminal prosecution for carrying obscene material.

expedited complaint resolution procedures for such problems, somewhat in the manner it presently does for Section 315 and related political broadcasting disputes.

Finally, DAETC believes that the Commission should clearly state that its rules and policies do not shield a cable operator from civil liability for breach of contract if the operator removes or bars programming that is not obscene or indecent.

Other Provisions of the 1992 Act

In the NPRM, the Commission inquires as to whether, under Section 612(j) of the 1992 Act, a cable operator is powerless to require that indecent programming be carried on a blocked channel if the program provider fails to identify the program as indecent.¹⁵

DAETC points out that Section 612(j)(1)(A) of the statute is clear that cable operators are required to place all indecent programs as *identified by program providers* on a blocked channel. This provision does not give program providers unbridled discretion, however, or leave operators without recourse. Under Section 612(j)(1)(C) of the 1992 Act, programmers are required to inform cable operators if a program is indecent as defined by Commission regulations. The Commission or the courts have the power to sanction program providers if they fail to comply with the provisions of Section 612(j)(1)(C). As mentioned above, DAETC recommends that the Commission establish expedited complaint procedures regarding indecency, and, pursuant thereto, cable operators would be free to bring such matters to the Commission's attention.

Respectfully submitted,

DENVER AREA EDUCATIONAL
TELECOMMUNICATIONS CONSORTIUM, INC.

By:



John B. Schwartz, President
P.O. Box 6060
Boulder, CO 80306
(303) 442-2707

Dated: December 4, 1992

¹⁵ NPRM at p. 5.

Appendix A

ARTICLES CONCERNING CAMNET

MARKETPLACE

THURSDAY, JULY 30, 1992

Camcorders Spark Two Cable Ventur

Camnet Gains Following With Documentaries

By MARK ROBUCHAUX

Staff Reporter of THE WALL STREET JOURNAL
LOS ANGELES—Cameraman Jay April sinks ankle-deep into a three-story-high compost heap, believed to be the largest in the Western world, and trains his camcorder on the heap's long-haired, bearded owner, who speaks only in rhyme.

Environmental zealot Tim Dundo, better known as Zeke the Sheik from the planet Bleak, is pontificating on the pile:

*I mix it like pancake batter
To make the ladder of matter fatter,
But it doesn't matter
Because everybody thinks I'm as mad
as a hatter.*

At intervals, Zeke breaks into song. A favorite: "I Never Promised You a Rose Garden."

The footage will soon air on Camnet, a five-month-old cable network that shows minidocumentaries shot with camcorders by a cadre of aging video activists and artists. Started by two women from Venice Beach, Calif., Camnet eschews anchors, reporters and hosts.

Correspondents have taped homeless poets, a skinhead picnic on the Mexican border, a visit to the Nixon Museum, a "Justice for Janitors" rally in Los Angeles and a guided tour of the Barbie doll inventor's prosthetic breast factory. Once Camnet lent a camcorder to Los Angeles gang members, whose woful footage of life in their neighborhood drew tears from one video editor.

This isn't cute enough to be "America's Funniest Home Videos." And it's a far cry from NBC's "I Witness Videos," which is often grisly. It's *cinema verite* meets *vox populi*, a gentle amateur service from the handheld point of view.

Two-Hour Loop

The stories, some sober and serious, some arcane, air the last two weeks of every month to more than 828,000 homes in 10 cable systems from Los Angeles to Philadelphia. The same two-hour loop airs 12 times a day. "Think of television as food," says Mr. April. "We've been eating the same meat and potatoes served up by the networks since the 1950s. Now people are cooking more exotic dishes at home."

That attitude has drawn a cult-like following of young and old viewers. "They reveal as opposed to preach," says Victor Dinnerstein, a 46-year-old San Fernando Valley resident and Camnet fan. "It's a little off the wall, but it's pure insight."

Camnet is run on a budget not much bigger than the combined savings of co-founders Nancy Cain and Judith Binder. They met while working on "The '90s," a critically acclaimed, populist camcorder-based magazine show now in its fourth and final season on PBS. They liked the concept so much that they decided it could work on a much bigger scale.

Ms. Binder had been an independent director with alternative theater troupes in Los Angeles. Ms. Cain and several other Camnet contributors are the same counter-

MEDIA



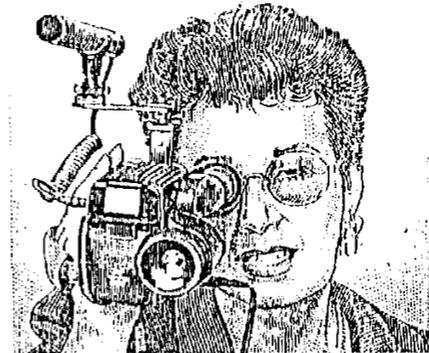
The co-founders of the Camnet cable network, Nancy Cain (left) and Judith Binder, seek a seamless tapestry of footage when they edit their minidocumentaries, and they discourage their 17 or so correspondents from ever turning the camera off during shoots. "Process is product," says Ms. Cain. "I have a high tolerance for raw tape."

culture video artists who roamed from loft to loft in New York in the late 1960s and early 1970s, watching each other's experimental videos on such topics as the trial of the Chicago Seven and Woodstock. They dubbed themselves the Videofreex and once transmitted homemade programming to a valley in upstate New York that wasn't being served by a broadcast station.

Camnet personnel still haven't exactly joined the Establishment. Advertisers are few despite the cheap rates. Sponsors can buy two dozen 30-second spots a day for a full week for \$504. Editorial control, what little there is, lies entirely in the hands of Ms. Cain, a longtime freelance video producer, and Ms. Binder.

"We open the window a little wider, try to let things develop a little more," says Ms. Binder. "Sometimes we succeed, sometimes we fail, but we're willing to risk the process to find the truth."

The two edit tapes sitting side by side before two 13-inch monitors in a small



Judith Binder

backroom of Ms. Cain's Venice Beach house, which is littered with videocassettes. On the wall are pictures of President Bush and former presidents Reagan and Nixon. "They inspire me," Ms. Cain remarks, deadpan.

The pair seek a seamless tapestry of footage when they edit, and they discourage their 17 or so correspondents from ever turning the camera off during shoots. "Process is product," says Ms. Cain. "I have a high tolerance for raw tape."

One of the more prolific correspondents, if not the most passionate, is Mr. April, a militant environmentalist who sleeps in a giant green tent in his living room. He drives from shoot to shoot in a 1970 Karmann Ghia, hugging the broken driver-side door so it doesn't swing

open on curvy mountain roads. On a sweltering California afternoon, he dutifully follows and records Zeke the Sheik as he points out areas of interest in his compost pile.

The footage isn't exactly broadcast quality. When the compost beneath his feet crumbles, Mr. April struggles for balance and the camera wobbles. He inadvertently coughs in the middle of a question, and an overhead jet muffles Zeke's voice. "It may not be technically perfect, but it's flat-out honest," he says. "This is gonzo journalism with a human touch."

Extinct Butterfly

What the network lacks in polished professionalism, it makes up in serendipity. Mr. April once stumbled on a group of real estate agents playing softball in a park whose construction drove the last known Palos Verdes Blue butterfly into extinction, in violation of the Endangered Species Act.

The cameraman approached a middle-aged couple sitting on bleachers and asked them solemnly, "Are you aware this was the last known habitat of the Palos Verdes Blue butterfly?" "I'm sorry to hear that," the woman responded politely, as she continued to watch the game.

Mr. April also shot a story on a coyote that was feasting on the poodles of the rich. It included interviews with the distraught pet owners and the county agent called to trap the coyote. The animal was eventually shown writhing in a trap, and minutes later, a single gunshot was heard off camera as Mr. April zoomed in on the agent's truck and its logo: Animal Control.

The agent, identified on camera only as Lonie, told the camera he didn't feel good about killing the coyote. "What justifies this in my heart and in my mind is the pets I save. Here I saved perhaps 10, 20 cats."

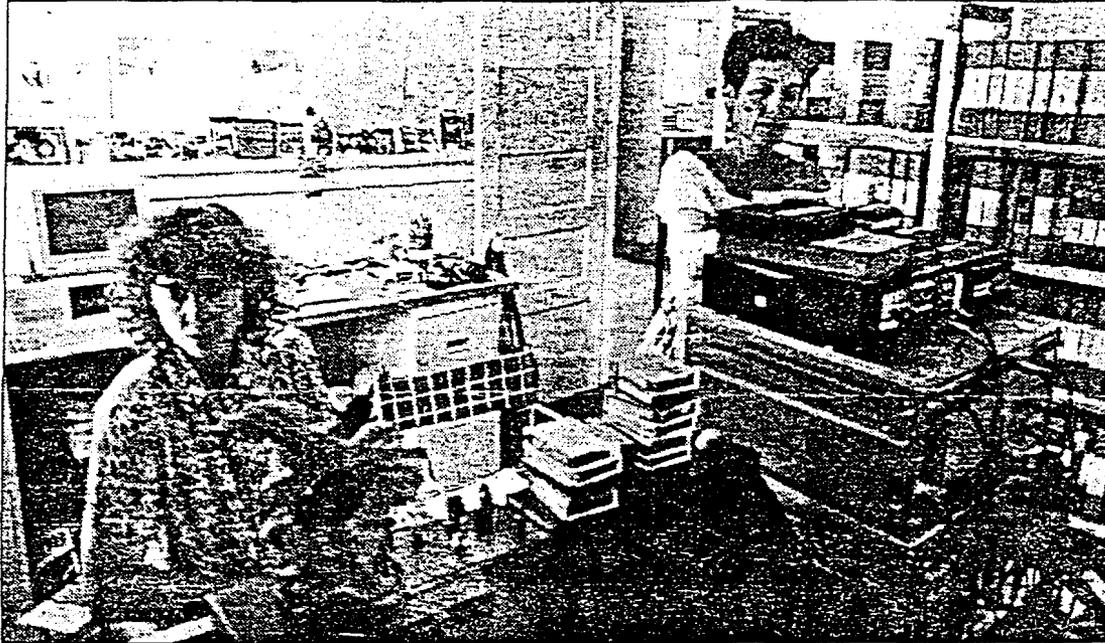
It was a classic Camnet moment — unstaged and otherwise unremarkable, a snapshot of life made more dramatic by its appearance on a TV screen. "If you point a camera and let people say what they want to say, nine times out of 10 it's more stimulating, more interesting than some reporter who's more concerned with the perfect part down his hair," says Mr. April.

Mr. April hopes for the day Camnet becomes a full-fledged network, but he says it has already spawned a revolution. "It used to be that Big Brother is watching us," he says. "Now, it's Little Brother."

Los Angeles Times

FRIDAY, OCTOBER 16, 1992

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JOSE GALVEZ / Los Angeles Times

Nancy Cain, left, and Judith Binder at work in the video editing room of their Venice home.

A Cable Network About the Real World

■ **Television:** The fledgling CamNet presents footage shot on 8mm cameras by activists, amateurs and artists. In Southern California, it is seen by about 100,000 viewers.

By STEVE WEINSTEIN
SPECIAL TO THE TIMES

Inside the Democratic convention last July, a fledgling cable network, armed only with a home video camera, roamed the aisles alongside NBC, CNN and PBS. But while the establishment media aired the speeches and the spin of the assembled pols, the CamNet camera focused elsewhere. The constant milling and inattention of the delegates, the hot dogs and sauerkraut, a reporter complaining about the frequent evocation of God and the lack of anything healthy to eat.

"I'm actually for some sort of spirituality in school, but you can't have God, because what about the people who believe in the Goddess? What about the secular humanists?" said correspondent Beth Lapides from somewhere in Madi-

son Square Garden. "You really can get lost in this place. You get hungry, you get thirsty and the food here is really awful. And that very much symbolizes how hungry Americans are for some real food. How hungry I am for something nutritious to eat is how hungry America is for something good."

The two founders of CamNet, a 6-month-old cable network that presents mini-documentaries and features shot on 8mm home-video cameras by a contingent of activists, amateurs and artists, have essentially the same philosophy.

"TV is boring. You flip through and every channel is the same thing," said Nancy Cain, who operates CamNet out of her Venice Beach home with her partner, Judith Binder. "CamNet stops you. If you're flipping around and you see this, it doesn't look like public access and it doesn't look like television, and it looks like something is happening, and it looks like it might be live and it looks like you might be right in the middle of it. It's very often riveting and exciting. It's NBC-Not."

Only about 1 million people can see it, however. CamNet is available on cable systems in only eight

cities, including Denver, Baltimore, Detroit and Philadelphia. In Southern California, CamNet can be seen by about 100,000 viewers on United Artists Cable in the East San Fernando Valley and the La Puente-Baldwin Park area.

Home video, of course, is no stranger to television. The videotaped beating of Rodney G. King changed the very history of Los Angeles. "America's Funniest Home Videos" turned home bioop-ers into a Top 10 network smash, and "I Witness Video" shows grisly home video of accidents and disasters.

CAMNET: Capturing a Hungry Audience

Continued from F24

But Cain and Binder contend that CamNet is not "exploitative," not out for the video "Boing!" that punctuates those other shows.

"We're really the opposite of what you can see on television," said Binder. "We're trying to show events, issues or lifestyles that haven't had their say-so before. We'd like to be a real alternative."

The idea was born out of PBS' "The 90s," the populist camcorder magazine series on which Cain and Binder served as producers. When the program, now in its fourth and final season, died, they decided to test the concept on a broader scale.

Many of the stories CamNet has produced reflect the artsy, unorthodox background of the network's founders, although Cain said that their only guiding philosophy is "freedom of speech."

Binder, who was moved by the power of Frederick Weisman's *cinema verite* documentaries, has worked as a director and videographer in the performance art scene. Cain was a member of the Video-freex, a group that toured the country in the '60s and '70s producing experimental videos on Woodstock, the Chicago Seven and geodesic domes. CBS actually commissioned a pilot of their work, but, Cain said, one executive "told me that it was five years ahead of its time. He was wrong. It was 20."

The CamNet pieces—some sad, some funny, some haunting—include a visit to a condom store on Melrose Avenue to learn about teen-age sexual behavior, skin-heads taunting Mexicans along the border, a trip to the Richard M. Nixon museum, a day in the life of New York City squatters and a demonstration in Washington in the aftermath of the King beating verdict.

About 20 correspondents around the country tape these stories on their own cameras and send the raw footage to Venice, where Cain and Binder sit side-by-side at a tiny editing bay in the back of Cain's house. The duo trim and craft the raw tape into *cinema verite* reports—very few CamNet pieces contain narration—producing four hours of programming each month that is shown in repeated cycles.

Reaction has been mostly positive, Binder said. "Those who hate it call it a communist plot, but most people seem to love it." The city of Alameda threatened to sue CamNet over its somewhat clinical look at a woman and the device she uses for sexual stimulation, Binder said, but that has been the only serious complaint.

Their office receives phone calls almost every day from viewers who want to help them expand into other areas. One teacher at San Fernando High School uses the CamNet reports in his civics classes. And Barbara Brownell, a North Hollywood mother of three who discovered her teen-agers watching CamNet one day, was so "turned on" by it that she went out and bought her own camera and started making tapes.

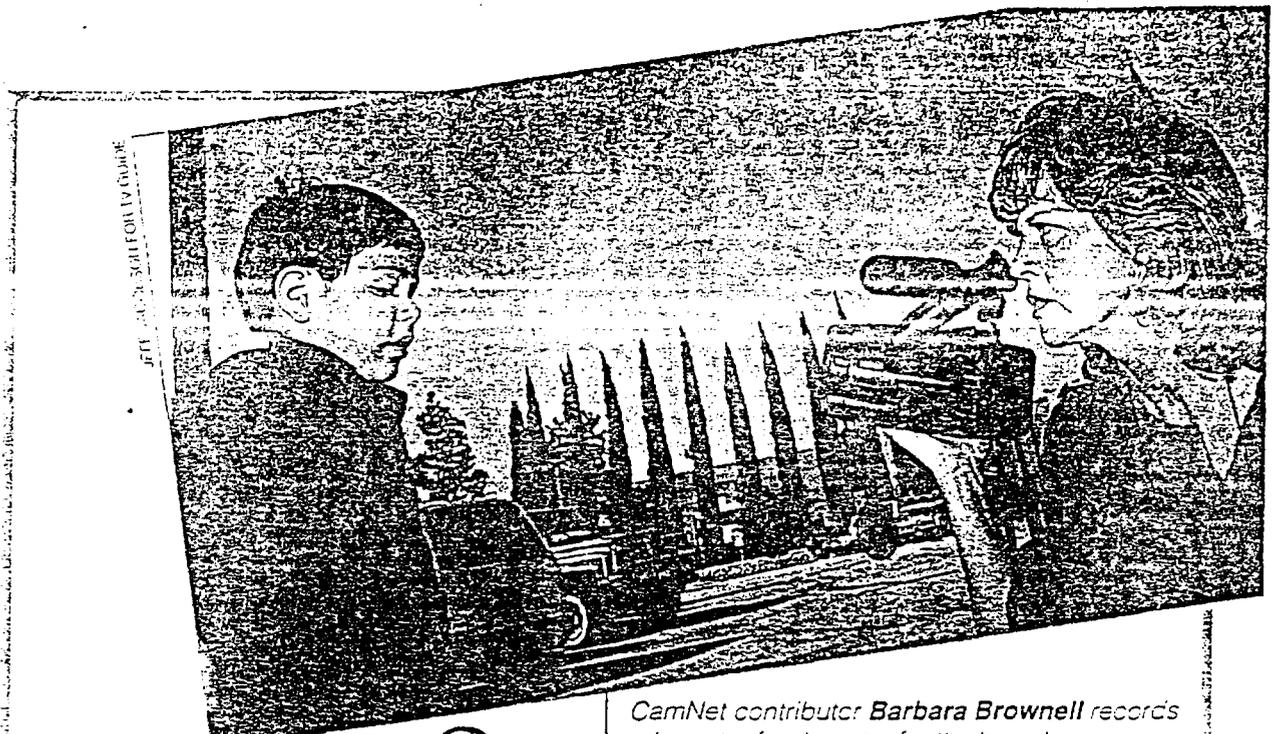
"It's very intimate and very real," said Brownell, who just shot a piece on a homeless man who warms his food on his car engine. "You can get people to say things that they would never say to a big camera with a crew and a big microphone boom. Just by turning on this little camera and pointing it at someone you can discover the

kind of charming and incredibly poignant human stories that would never happen with Ted Koppel."

Cain and Binder are financing the venture primarily out of their own pockets, paying their correspondents "essentially nothing." Advertisers are scarce, even though one week of hourly ads costs just \$504, or \$3 per spot. One of CamNet's most reliable sponsors, a Long Beach electronics store, burned down during the L.A. riots.

Nevertheless, Cain and Binder pledge to persevere. They brim with optimism that they will find their way onto thousands of expanding cable systems and make money for themselves and their dedicated contributors. They continue to seek underwriting from several companies that are compatible with their philosophy, and a Tokyo firm is interested in airing CamNet on late-night television in Japan, Cain said.

"I think that some rich Asian newspaper magnate is going to want to get into television or [the head of a huge cable conglomerate] is going to see something about us and say, 'I'm sorry I didn't return your calls, but now I believe in you,'" Cain said. "I'm convinced that there is a market for us just like there is a market for Ted Turner's cartoon channel. I mean, how many of these same old cartoons can you look at?"



JEFF LEE/SYGMA FOR TV GUIDE

VIDEO POWER TO THE PEOPLE

CamNet, America's first all-camcorder channel, shows life on the fringe

When it premiered last March, CamNet—America's first all-camcorder network—became a sort of non-establishment C-SPAN. While cable-supported C-SPAN covers power in Washington, CamNet's army of unpaid photographers serves up raw, and often fascinating, scenes from the fringe that the traditional news media frequently ignore. And that, in turn, gives clout to

CamNet contributor Barbara Brownell records a boy at a food pantry for the homeless.

people who don't hobnob with the elite.

CamNet has shown gang members' views of their neighborhood, rides on New York subways, racist skinheads at the Mexican border, and topless protesters outside the Democratic National Convention in New York City.

Each week, video vérité scenes like these are edited into a two-hour package that's continuously repeated on eight cable outlets reaching 819,000 homes.

"We think of it as real-life television," says Nancy Cain, who created CamNet with partner Judith Binder, and keeps it running from the back of her Venice, Cal., beach house. They hatched the idea when they saw how much camcorder material was available for PBS's *The 90's*, a series to which they contributed. With CamNet, they hope to, as Cain puts it, "demystify the media."

The cost is a mystery, though—Cain claims that CamNet has no working budget. They keep it going with their savings and a few small advertisers. But CamNet is designed to make a point, not a fortune. It's difficult to keep secrets when everyone has a camera, says Cain. As the Rodney King video showed, even government officials can't fight the power that ordinary citizens can wield with a tiny camcorder.

—Joe Rhodes

Media

[Cont. from 117] ably offer their own cable TV programs in a few years.

These new phone, screen and satellite technologies make Ross Perot's mad vision of an electronic town hall inevitable. Perot was on the mark when he said his notion makes reporters crazy by making the White House press conference obsolete.

Reporters are also being shoved aside by a relatively low-tech opponent: video-driven, reality-based TV. How can a police reporter describe a murder when viewers can see one on *Cops*? What some producers call "unfiltered" programming, *Cops* is one of a whole generation of reality broadcasts — *Rescue 911*, *Code 3*, *Top Cops*, *Unsolved Mysteries*, *America's Most Wanted*, *Sightings*, *I Witness Video* — which prove nothing is more gripping than a real story. None of the broadcasts use what used to be called reporters.

This fall Time Warner unveiled New York 1 News, New York City's first twenty-four-hour local news channel. Local cable news operations already exist in Washington, D.C., California and New England, but the debut of New York 1 in the nation's largest TV market has gotten the attention of the thousands of journalists who live there, providing a showcase of the world to come. New York 1 News, and other cable channels expected to follow, will broadcast live high-school football games and City Hall tax hearings and Board of Education condom fights and four-alarm fires — things we used to need reporters to learn about.

In the United States anyone with a pen or a pencil, a notebook, a still camera or a videocam — there are tens of millions — is a reporter. Some of them, like the amateur journalist who shot the police beating of Rodney King, will break the biggest stories in the country. They will provide the manpower, the audience and the voice for the next step in the evolution of information: the People's News.

The inevitable successor to the old and new kinds of transmitting stories, the People's News will make journalists out of all of us and plug us back into the political system in ways that would have had the radicals who founded the nation's media dancing in their cobbled streets.

The People's News is, in fact, already on the air, although most journalists have never heard of it. It is CamNet, a nine-month-old cable network that airs documentaries and features shot on Hi-8mm video cameras by amateurs, artists, activists. Like Ted Turner's belittled vision of CNN a decade ago, CamNet is the brilliant vision for the next decade and beyond. Founded in a back room of a Venice Beach, California, home by two former PBS producers, CamNet has no corporate backing or market research. Just twenty picture makers scat-

tered around the country.

CamNet is so far available in only eight cities, including Los Angeles, Denver, Baltimore and Philadelphia. But it or something like it is coming soon to a TV set near you. It's the inevitable next step in the liberation of television from network owners and broadcasters and its evolution as a medium that can interact with millions of people and return TV to individual Americans, a process Clinton, Perot and Brown legitimized.

CamNet's pieces are eclectic, odd, funny, haunting, spontaneous and strikingly apart from slick commercial-TV production values. CamNet stories include condom stores in L.A., skinheads taunting Mexicans along the border, the Richard M. Nixon museum, a Washington, D.C., march against police brutality.

"You really can get lost in this place," a CamNet correspondent reported during the Democratic Convention in Madison Square Garden. "You get hungry, you get thirsty, and the food here is really awful. And that very much symbolizes how hungry Americans are for some real food." CamNet returns individual, idiosyncratic, untutored voices to broadcasting, where the whole culture of TV journalism — pollsters, blow-dried reporters and anchors, advocates, spokespeople and lobbyists — is structured to keep them off. The People's News will show us in the mirror, not just them.

There may be lots of good reasons why reporters need to survive and why the current structure of journalism ought to be preserved. But if they do exist, the media need to start articulating them.

So far the media, like the White House during 1992, show few signs of seeing themselves in crisis. The New News is largely still pooh-poohed as unnerving, slightly dangerous and frivolous mush. Newspapers still run black-and-white pictures of events the rest of us saw twenty-four hours earlier in color, and white, middle-aged men in suits still sit behind evening-news anchor desks and say nothing much in grave and mellifluous voices.

Time does finally seem to be getting short. Perot's bloody loss did not reaffirm the media's importance or service to the republic. Quite the opposite. Like Marley's Ghost, his campaign brought with it visions of the future nobody wants to see.

The blunt reality is this: In a world where everybody is a journalist, then nobody really is. Journalists derived their power and special place in the country from the fact that they got to see history and relay it to us. If we're all seeing history as it unfolds and taking the pictures ourselves, then journalists seem increasingly, and sadly, doomed to follow the lumbering, awkward and poorly adapted institutions they work for into the country's history. The 1992 campaign and the technological revolution that is charging along on its heels suggest the death of the reporter is just a few channels away. ■

Appendix B

Program Segments Carried by The 90's Channel Dealing with Sexuality

"Self-help." A women's health organization in Austin, TX seeks to demystify gynecology, teaching women how to perform their own pelvic examinations. The organization's director is interviewed on the intimidating nature of gynecological procedures, and an internal examination is shown. A woman's pudenda are visible.

"Mapplethorpe Exhibit." The controversy over the Robert Mapplethorpe exhibit at a Boston art museum. Interviews with attendees are interspersed with images of many of the photos, including some of his most dramatic nudes. One man protests that \$30,000 in government funding was spent "to put picture frames around these hideously obscene pictures." A woman observes that while nudes of women are common, Mapplethorpe is one of the few photographers who celebrates the beauty of the male body. She speculates that this quality is threatening to certain men. The museum director says he thinks that the exhibit has brought important issues concerning racism and homophobia into the public debate.

"Abortion Protest." This piece documents performance art by Elise Millikan. Millikan appears in front of a billboard which overlooks a New York street, and which bears the image of a giant coat hanger. She removes her overcoat, and, naked, performs a simulated self-abortion. She screams. Red liquid splatters copiously, staining a considerable portion of the billboard. Interviews follow with passers-by and with Millikan. She says: "The government doesn't own my body. The government doesn't own my art. So hands off."

"Fertility Festival." Images and sounds from the annual fertility festival in Iuyama, Japan, complete with bright costumes and a street procession. Many of the objects carried by marchers are totems shaped like penises.

"The Kind and Di." Di, a Los Angeles woman, buys a dildo. This is her first-person story of why and how she did it. It develops that she is disillusioned by the phoniness of courtship, and depressed that she is not in love. In a decision she admits is bitter-sweet, she resorts instead to a sexual device. She holds up the dildo, which is made of clear plastic and shaped like a penis. She switches it on. She discusses its features and pleasures with Judith Binder, who both operated the portable camera and produced the piece.