

Before the  
Federal Communications Commission  
Washington, DC 20554

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ORIGINAL FILE

In the Matter of

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

MM Docket No. 92-258

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REPLY COMMENTS OF  
ERIK S. MOLLBERG

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

The comments filed by the cable industry in this proceeding indicate that, if cable companies are given broad authority to implement the regulations adopted by the FCC pertaining to programming on access channels, many of them will exercise it broadly, even if the result is to prevent the use of access channels altogether.

Such a result cannot possibly be reconciled with the basic purposes of the Cable Act, which include promoting diversity. As a result, I urge the Commission to reject any proposal that would leave the operator with broad discretion to ban programming on public access channels. Instead, as urged by the Alliance for Community Media and others, the FCC must adopt rules that carefully and narrowly define the circumstances under which access programming can be banned.

There are several good reasons why this is so (aside from the constitutional and statutory reasons identified in the comments filed by the Alliance for Community Media). Several operators have suggested that, if they are given broad authority to review PEG access programming for content, the result will be increased expense and delay in cablecasting programming. In Fort Wayne Indiana, we have several live call-in programs that deal with events happening in the community in a timely nature. Any delay could jeopardize the impact to the community and the opportunity for community dialogue.

Several operators have indicated that they would exercise their authority over programming selectively. Indeed, operators cannot be relied upon to exercise any government-given authority to censor fairly or evenly. A perfect example is the current Time Warner Entertainment Co. court case where TWE is saying they shouldn't have to provide PEG access channels. They say that government access channels could contain speech that TWE may not particularly agree with. Who knows, perhaps TWE will find C-Span a form of cable programming they cannot agree with and would censor so that they could then provide cable subscribers with speech from some TWE mouth piece.

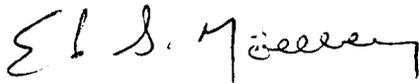
Several operators have suggested they wish to use the FCC's rules to require producers to provide insurance, indemnification and in some cases, bonds. At this public access station, our community is producing over 140 new programs per month, more than the 5 local broadcast stations combined! Very few of our producers could afford this kind of expense and that would have a tremendous chilling effect on the community's only channel dedicated to localism which they control in the final analysis.

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Not only would this interfere with speech, the industry has not shown it is necessary to do so. Every producer at our public access station must sign a waiver accepting full responsibility for their program and that our organization, the local city nor the cable company (Comcast Cablevision) can be held responsible for the programs content. There is no reason to replace these agreements ( or agreements where the operator has has chosen to do without an indemnity) with a national standard, which may present serious legal questions.

For reasons stated above, the Commission should reject proposals by the cable industry that cable companies be granted broad authority to censor PEG programming, and adopt proposals made by the Alliance for Community Media.



Erik S. Mollberg, Public Access Coordinator  
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December 21, 1992