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FEDERAL COMMUNICATIONS COMMISSION
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Before the
Communications Commission
Washington, DC 20554

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DEC 21 1992

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MM Docket No. 92-258

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)

REPLY COMMENTS OF
CINCINNATI COMMUNITY VIDEO, INC.

The recent comments that were filed by the cable industry in this proceeding seem to say that if cable companies are given broad authority to implement the regulations adopted by the FCC in regards to access channel programming, many of the cable companies will exercise this authority as fully as possible, even if the end result is to prevent the use of access channels altogether.

However, this result cannot be fully reconciled with the basic purposes of the Cable Act, one of which is to promote diversity. Therefore, Cincinnati Community Video is urging the FCC to reject any proposal that would allow the cable operator so much authority in banning public access programming. What the FCC must do instead, as urged by the Alliance for Community Media (ACM) and others, is to adopt rules that more carefully and narrowly define the circumstances under which access programs can be banned.

Aside from the constitutional and statutory reasons identified in comments filed by the ACM, there are a number of good reasons why this is so. The first issue is the sheer amount of time it would take to review access programs for content violations.

In our case, citizens and community organizations supplying local programming to four public and educational access channels on the Cincinnati cable system create over 400 new hours of programming a month. The practicality of setting up a review process in anticipation that there might be an obscenity is not prudent. It is particularly imprudent when consideration is given to the fact that in 10 years of access operations with over 30,000 access programs cablecast not a single obscenity violation has ever occurred.

The second reason is Congress' intention to allow for program diversity. This intention comes to fruition through public access. Public access allows all constituencies to speak, to use the pervasive medium of television to communicate opinions. Thousands of citizens and non-profit agencies use or have used public access here. From the Better Housing League to the NAACP to the Cincinnati Board of Education, all are using or have used public access television.

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Any ruling that would delay or otherwise jeopardize the timely delivery of public access programs would inappropriately stifle the diversity of programming which Congress sought to encourage.

Finally, Cincinnati Community Video finds especially unclear Warner Cable's specific comments to the FCC regarding the Cincinnati, Ohio public access channel cablecast of nude sports programming supplied by a nudist organization as an example of local indecency. The area chapter of the American Sunbathers Association did supply a program about nudist lifestyles in March of 1992 which ran no earlier than 12:30am. There were virtually no complaints from citizens regarding public indecency. There was far more public outcry regarding decency when Warner Cable offered the Playboy channel here. They eventually pulled it from the channel lineup as Warner had problems controlling illegal receipt of the service. Our overall concern is the use of the term "indecent" which Warner applies to this particular access program. We fear it is an example of how they will exercise unlimited rights to censor access programming and, as in this case, develop sweeping generalizations regarding the labeling of program materials as indecent.

There is no reason to allow operators to so interfere with access operations, established and operating by mutual agreement. 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.



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