AMERICA'S
PUBLIC
TELEVISION
STATIONS

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January 21, 1993

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BY HAND

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554

Re: MM Docket No. 92-259

Dear Ms. Searcy:

Enclosed is a corrected version of comments filed by the Association of America's Public Television Stations in the above-captioned docket on January 19, 1993. The corrected comments include an attachment cited in the text (at note 25, p. 29) which was omitted inadvertently, a clarification to the first full paragraph on page 11 and minor corrections to several typographical errors.

Respectfully submitted,

Marilyn Mohrman-Gillis

Marilyn Mohrman-Gillis
General Counsel

MMG:j
Enclosure: (1)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

In the Matter of	)	
	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket No. 92-259
	)	
Broadcast Signal Carriage Issues	)	

REPLY COMMENTS OF AMERICA'S PUBLIC TELEVISION STATIONS

Respectfully submitted,

AMERICA'S PUBLIC TELEVISION STATIONS

By: David J. Brugger
President
Marilyn Mohrman-Gillis
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Washington, D.C. 20036

January 19, 1993

SUMMARY

The Association of America's Public Television Stations (APTS) makes the following points regarding the initial comments filed in this docket January 4, 1993:

1) the Commission should measure the threshold programming eligibility requirement for municipal stations on a daily basis, not weekly as suggested by WNYC;

2) contrary to the suggestion of numerous cable commenters, the statute is clear that eligibility for noncommercial must carry status is in no way dependent upon whether or not the licensee's channel is a reserved channel and, contrary to the suggestion of WNYC, the statute clearly provides that where there is no qualified local signal cable systems must import an otherwise qualified noncommercial station and does not call for additional eligibility guidelines under those circumstances;

3) there is ample basis in the record for adopting specific, objective criteria for determining principal headend and mandating appropriate notice to stations of cable systems' choices;

4) the comments provide no basis for rejecting APTS' proposal that cable systems facing demands for carriage in excess of the statutory caps be required to give priority to the nearest in-state stations;

5) InterMedia Partners' argument that noncommercial "must carry" stations carried initially on PEG channels are forever after relegated to "may carry" status is frivolous;

6) the Commission should adopt WNYC's proposals as to the type of material cable systems should be required to keep in their public file regarding must carry stations;

7) the Commission should reject as too narrow the Copyright Office's definition of "related programs" in determining what is "program-related" material;

8) MSTV is correct in asserting that the Commission must require cable systems to provide broadcast signals with any enhanced signal processing they provide cable programmers; and whether and when cable systems are permitted to strip ghost cancelling signals should be referred to the Commission's pending proceeding on ghost cancelling;

9) possible technical difficulties with carriage on off-air channels provide no basis for diluting stations' rights to off-air channel carriage; cable operator comments cast further doubt as to the legitimacy of claims of technical infeasibility of carriage on the off-channel and basic tier; and the Commission has no statutory basis for permitting cable operators from using existing programming contracts to deny licensees their statutory channel positioning rights.

Finally, APTS submits detailed proposals for implementing an enforcement and dispute resolution process.

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REPLY COMMENTS
OF AMERICA'S PUBLIC TELEVISION STATIONS

The Association of America's Public Television Stations hereby replies to the comments filed in the above-captioned docket on January 4, 1993.

I. DEFINITION OF QUALIFIED LOCAL NONCOMMERCIAL EDUCATIONAL STATION

A. Definition of Qualified Noncommercial Educational Station

1. Municipally-Owned Stations

The Notice asks what criteria should be used to determine whether a municipally-owned station transmits "predominantly noncommercial programs for educational purposes" under Section 5(l)(1)(B). Both APTS and WNYC (the only municipally-owned station to our knowledge that is covered by the provisions of Section 5(l)(1)(B)), advocated that the Commission should define the requirement consistent with the legislative history: A municipally-owned station meets the requirement of Section 5(l)(1)(B) if "more that one half of such a station's programming is noncommercial

programming for educational purposes, as measured in broadcast hours."[1/]

APTS and WNYC differed, however, as to the appropriate time frame for measuring the more than 50 percent noncommercial educational program requirement. APTS suggested that a station be required to broadcast more than 50 percent noncommercial educational programming on a daily basis, while WNYC suggested more than 50 percent per week.

APTS urges the Commission to set a daily standard for the broadcast of noncommercial educational programming. This will insure that the station has a consistent, daily, noncommercial educational program component, rather than a block of noncommercial educational programming during one part of the week. APTS also suggests a requirement that the noncommercial programming be broadcast during the day and evening hours to ensure that a municipal station does not relegate its noncommercial programming to the "graveyard" portion of its broadcast schedule. Without these restrictions, a municipal station would be able to easily undermine Congress' intent that the noncommercial educational programming be easily accessible and available to viewers.[2/]

[1/] See H.R. Rep. No. 628, 102d Cong. 2d Sess. (1992) 9 (hereinafter "House Report").

[2/] This was clearly the goal of the Consumer Federation of America (CFA) when it suggested that the Commission establish the primary viewing hours as well as those periods when most children, minorities and special-need viewers are watching, and mandate that municipal stations devote 50% of these "most (continued...)

2. Stations Operating On Non-Reserved Channels

The Notice asks when, if ever, the FCC should grant noncommercial educational status under Section 5 to stations or translators operating on channels other than those reserved for noncommercial educational use.

APTS and the Educational Broadcasting Corporation (licensee for WNET, Newark, New Jersey)(EBC) urged a simple answer consistent with the language of the statute: the Commission should rule that all stations meeting the criteria set forth in Section 5(l)(1)(A) or (B) are eligible for carriage as qualified noncommercial stations, regardless of whether they operate on reserved or non-reserved channels. As APTS and EBC pointed out, nowhere in Congress' definition of a qualified noncommercial station is there any additional requirement that a station must be operating on a reserved channel.

The remaining commenters on this issue appeared to stray unnecessarily from the clear language of the statute in

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[2/](...continued)
viewed periods" to noncommercial educational programs. CFA Comments at 5-6. APTS suggests that requiring noncommercial programming to be broadcast on a daily basis during day and evening hours (6:00 a.m. to 12:00 p.m.) is a simpler, less restrictive way to accomplish this goal.

Newhouse Broadcasting suggests a more rigorous standard, such as 80%, to effectuate Congress' goal to "promote access to distinctive noncommercial education television services." Newhouse Broadcasting Comments at 27. APTS has no objection to this standard.

their proposed solutions. A number of cable commenters advocated a case-by-case determination by the Commission as to whether a station operating on a non-reserved channel should be afforded must carry status under Section 5 of the Act.[3/] A case-by-case determination is unnecessary and places an onerous burden on the Commission. Congress has provided clear guidance that applies whether a station is operating on a reserved or non-reserved channel. If a station meets the requirements of the statute -- i.e., it has a noncommercial license, is owned and operated by a public agency, nonprofit foundation, corporation or association, and is eligible to receive a community service grant from the Corporation for Public Broadcasting (CPB);[4/] or in the case of a municipally-owned station, transmits "predominantly noncommercial programs for educational purposes" -- it is a qualified noncommercial educational station entitled to carriage under Section 5 of the Act. The fact that a station may operate on a non-reserved channel is irrelevant. It has no bearing on whether the station meets these qualifications, or on the station's

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[3/] NCTA Comments at 4 n.5; Time Warner Comments at 5-6; Adelphia Comments at 4.

[4/] Congress has required CPB to establish, for the receipt of such grants, "eligibility criteria that promote the public interest in broadcasting...." 42 U.S.C. § 396(b)(6)(B)

noncommercial educational program format. Consequently, no case-by-case analysis by the Commission is required.[5/]

WNYC appears to advocate that stations must satisfy the definition in the statute to qualify for carriage under Section 5 except in those circumstances where there is no qualified local noncommercial station to a cable system. Under these circumstances, it appears that WNYC is advocating that the Commission apply "some new guideline" to ensure that a local station that is carried is devoted to predominantly educational purposes. WNYC Comments at 5. The statute does not contemplate "new guidelines" for defining eligibility for carriage under Section 5 in cases where there is no local station. Rather, it clearly addresses the proper procedure under those circumstances. Where there is no local qualified noncommercial educational station, the cable system is required to import the signal of a non-local qualified station. § 5(b)(3)(B). Thus, the Act contemplates that all

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[5/] Likewise, the complicated criteria for determining eligibility of a noncommercial station or translator operating on a non-reserved channel proposed by the National Association of College Broadcasters depart from the clear definition in the statute and are unnecessary. A station that meets the statutory requirements -- the station is a noncommercial licensee under Section 73.621 of the FCC rules, and is eligible to receive a community service grant from CPB -- will automatically meet the requirements suggested by the College Broadcasters. Noncommercial licensees that receive CPB grants must transmit a 100% noncommercial educational program format regardless of whether they are operating on a reserved or non-reserved channel. Moreover, they are subject to strict underwriting rules set out by the Communications Act and interpreted by the Commission. See e.g., 47 U.S.C. § 399(B); 47 C.F.R. § 73.621(e) and cases cited in the Note thereto; Public Notice, FCC 86-160, 51 Fed. Reg. 21,800 (1986).

cable systems will carry at least one qualified noncommercial educational station as defined in Sections 5(1)(1)(A) or (B).

In sum, there is simply no need for the Commission to stray from the clear language of the statute and impose a new definition or a case-by-case review to determine the eligibility of stations operating on non-reserved channels under Section 5.

B. Definition of "Local" Noncommercial Educational Television Station

APTS' initial comments urged that the Commission adopt specific, objective criteria for designating cable operators' principal headends and that cable operators be required 1) to notify all potentially affected stations of their choices and 2) place an appropriate notice in their public files as well. Significant support for these positions is found in the comments, even those of cable operators.

Thus, for example, though InterMedia Partners and Tel-Com urged that cable operators retain discretion to designate the principal headend, they conceded that cable operators would most likely designate the headend which either serves the majority of system subscribers or which accommodates the majority of the signal processing equipment.[6/] APTS believes that either or both of these objective assessments would be satisfactory and would eliminate the difficulties inherent in assessing whether a

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[6/] InterMedia Partners Comments at 3; Tel-Com Comments at 3.

cable operator's choice of headend was motivated by an "intent" to subvert the Act.

Several operators, moreover, conceded that appropriate notice requirements to the potentially affected stations and the public of the initial designation and any subsequent changes are essential. See, e.g., Tel-Com Comments at 3-4. NCTA's contrary suggestion that no notice at all is needed because the Commission will "undoubtedly" obtain this information in resolving must carry complaints is patently frivolous. NCTA Comments at 4-5. Without such notices, many stations will be unaware that they even have the grounds for a complaint.[7]

II. SIGNAL CARRIAGE OBLIGATIONS

A. Discretion of Cable Operators to Select Stations To Carry

The Notice proposes that, where small or medium-sized cable systems receive requests for carriage in excess of their carriage obligation under Section 5, the cable systems should be permitted to exercise their discretion to select the noncommercial educational station(s) they will carry. APTS strongly urged the Commission to adopt objective criteria for

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[7] APTS agrees with Adelphia Communications (Adelphia Comments at 5) that the Commission's list of communities and reference points in Section 76.53 should be updated to include every community to which a noncommercial station is licensed. Indeed, to minimize the number of future amendments to the table, it would appear prudent to list the names and reference points of all communities to which noncommercial stations are allotted in the Table of Allotments.

determining the station(s) to be carried under these circumstances and counseled against relying upon the discretion of the cable operator. Specifically, APTS suggested a simple test: the operator when faced with excess requests should be required to carry the in-state station that is most local unless the noncommercial stations involved agree otherwise.

Few commenters addressed this issue, which is unique to noncommercial educational stations, and those that did seemed to be confused as to the context in which it would arise.[8/] For all of the reasons set forth in our original comments, APTS believes that cable systems will be motivated by their own private economic interests rather than the public policy objectives of Section 5. The "most local" test proposed is most likely to result in the carriage of noncommercial educational stations that will cover the issues

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[8/] InterMedia and Tel-Com supported the Commission's proposal to give the cable operator discretion to chose the station it would carry. They asserted that the cable operator should merely have to inform the station that (1) the operator had reached its maximum number of required noncommercial stations; and (2) that the station's programming substantially duplicates the programming of the station carried. InterMedia Comments at 4; Tel-Com Comments at 5-6. The substantial duplication restriction has no bearing on the issue raised by the Commission, which arises only when cable systems, with capacity of less than 36 channels, receive requests for carriage in excess of the carriage caps established in the Act.

of concern to the local community and provide service to the community.[9/]

Time Warner noted that the Act gives cable systems with 36 or fewer channels the discretion to carry additional local or non-local noncommercial educational stations, and requested the Commission to make that same discretion explicit for systems with more than 36 channels. Time-Warner Comments at 10-11. APTS has no objection. As long as the cable system carries the requisite number of qualified local stations under the Act, it may carry as many additional noncommercial stations as it chooses. This discretion furthers the overarching policy of public television that there be the widest possible access to noncommercial educational signals.

Adelphia suggested that, if a station grandfathered under Section 5(c) substantially duplicates another noncommercial station carried by the cable system, the cable system should have the discretion as to which station to carry. Adelphia Comments at 3. Adelphia misreads this provision, which states, "Notwithstanding any other provision of this section, all cable operators shall continue to provide carriage to all qualified local noncommercial educational television stations" carried as of March 29, 1990. Such

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[9/] For example, a noncommercial educational station that carries instructional programming should be carried by the cable systems franchised within that state the station serves, in preference to an out-of-state noncommercial station that may happen to be closer to the cable system headend.

stations have grandfathered must carry rights regardless of any other provision in Section 5, including the duplication provision.

For this same reason, Adelphia erred when it argued that a cable operator can be excused, under certain circumstances, from carrying a station that was carried on March 29, 1990, but subsequently dropped. The whole purpose behind Section 5(c) is to guarantee the must carry status of stations carried as of March 29, 1990 in accordance with an agreement entered into between APTS and NCTA on that date. Adelphia's interpretation would permit cable operators, that dropped stations in violation of that agreement, to benefit from those bad acts.[10/]

B. Placement of Noncommercial Stations on PEG Channels

Section 615(d) of the Act states that any cable operator "required to add the signals of qualified local noncommercial educational stations" may, with the approval of the local franchise authority, carry such "additional" signals on unused PEG channels. There is absolutely no basis, as

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[10/] Adelphia and Time Warner both asserted that a cable operator should not be required to carry both an originating station and its translator, and should be entitled to carry the translator where it delivers a better quality signal to the cable headend. See Adelphia Comments at i; Time Warner Comments at 5. APTS agrees with the following condition: where a cable operator chooses to carry a translator, the channel position of that signal should be governed by the originating station. This will prevent a cable operator from defeating a station's channel positioning rights by choosing to carry the station's translator located on a different channel.

InterMedia Partners suggested, for the Commission to find that any such stations would "take" a PEG channel on a "may carry" basis, would have no other must carry channel positioning rights and could be ejected from the cable system on 30 days' notice. InterMedia Comments at 8.

To the contrary, by its clear terms, Section 615(d) says nothing more than that if, and only if, there is a PEG channel available, additional noncommercial stations "required" to be carried can be carried on a PEG reservation. It would be truly absurd to construe it as permanently altering the must carry status of any station simply because a cable system had the initial capability and inclination to carry it on a PEG channel. If a cable system either initially or, because of a later demand for the PEG channel, cannot take advantage of the PEG exception, it must provide the newly eligible noncommercial station with its full carriage and channel positioning rights under the Act, even if that means displacing another programming service. APTS Comments at 21-22.

C. Identification Of Signals Carried In Compliance With The Act

Section 5(k) requires the cable operator, upon request by any person, to identify the noncommercial educational signals carried on its system pursuant to the carriage requirements of Section 5. The Notice asks whether the Commission should establish notification procedures including requirements for written notification, the time of

the notification and the filing of the notification in the public file. Notice at ¶ 14.

APTS, along with CFA and WNYC advocated mandatory notification procedures that included specific time limitations and public file requirements.[11/] Cable commenters filing on this issue generally agreed that cable systems should be required to notify stations, upon request, of the must carry signals.[12/] Moreover, all the cable systems that commented, except one,[13/] agreed that this information should be kept in the operator's public file. Accordingly, the Commission should adopt formal notification procedures and require, at a minimum, that signal carriage information as suggested by APTS be kept in the cable system's public file.

WNYC advocated that cable systems be required to carry a "mandatory carriage file" that contains information

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[11/] APTS advocated that cable systems be required to: (1) respond within 10 days to a notification request under Section 5(k); (2) identify signals carried (or to be carried within 60 days) under the Act; (3) file this Section 5(k) carriage list in its public file and update it within 30 days of changes; and (4) provide an updated list to stations that have requested notification under Section 5(k) at least on a quarterly basis. See APTS Comments at 22-24. See also CFA Comments at 12 and WNYC Comments at 9-14.

[12/] See Adelphia Comments at 6; NCTA Comments at 8; Tel-Com Comments at 9, and Time Warner Comments at 9.

[13/] Time Warner argued that the public file requirement is overly broad and creates unnecessary paperwork burdens. Time-Warner Comments at 9. APTS submits, and apparently other cable systems agree, that keeping information related to must carry in the public file is a routine administrative function that does not impose an unreasonable burden on cable systems.

that will enable qualified noncommercial educational television stations to enforce their rights under Section 5. WNYC Comments at 12-13. This includes, in addition to signal carriage information under Section 5(k), the number of usable activated channels on the system, the number and location of the PEG channels, a list of noncommercial stations requesting carriage, along with the disposition and basis for the disposition, the location of each headend including the designated principal headend, and a list of noncommercial stations carried as of July 19, 1985 and March 29, 1990. Id.

Each piece of information listed by WNYC enables a noncommercial station to determine whether it is entitled to carriage under Section 5, and whether its desired channel position conflicts with the channel position of another station carried by the cable system. The availability of this information in the cable system's public file will reduce the number of initial requests for carriage from stations that do not meet the statutory requirements and reduce the number of complaints filed with the FCC to enforce carriage rights. The net result will be less burden on the Commission, the cable systems and the stations, as the stations engage in the process of exercising their carriage rights under the Act. This information will have to be provided to the stations at some point in the process (see discussion infra at Part V.B.3 outlining APTS' suggested burden of proceeding in an FCC enforcement action). It is most efficient and reasonable to

require a cable system to provide such information as a regular part of its public file.

III. TECHNICAL ASPECTS OF SIGNAL CARRIAGE

A. Vertical Blanking Interval And Subcarrier Carriage Requirements

APTS agrees with NAB that 1) claims of technical infeasibility for carriage of broadcast VBIs and subcarriers should be greeted with skepticism and 2) incorporating the narrow copyright definition of "program-related" is neither required by the Act nor good policy. NAB Comments at 22. As the Act recognizes, enhancements to traditional broadcast service are becoming increasingly important, particularly to the many special communities served by public television. But without a strong presumption that these services are to be carried, cable operators will bow to their narrow economic incentives and strip as many such services as they are permitted to.

The Copyright Office's definition of "related program" is patently inadequate in the must carry context. Among its deficiencies is the fact that it is limited to material "intended to be seen by the same viewers" as the primary program in the "same interval of time." It would exclude clearly integral and vitally important educational material such as lesson plans, teacher guides, computer software indexing and bulletin boards. The Commission should

take a broader view and encompass all material that is substantially related to primary programming.

B. Signal Quality

APTS agrees with MSTV that the Act requires that the Commission's technical standards be amended to provide that cable operators will do "no less" signal processing of broadcast signals than of any other kind of signal. MSTV Comments at 3. Thus, if a cable system undertakes affirmatively to enhance the signal quality of any signal it carries, it must do the same for broadcast signals.

APTS is also sympathetic to the concerns expressed by MSTV and NAB over the possibility that cable stripping of ghost cancelling signals will impede the development of this major new technical initiative. MSTV Comments at 3-5; NAB Comments at 23-4. The potentially significant implications of permitting cable stripping should be deferred and considered more fully in the context of the Commission's newly initiated rulemaking looking towards reservation of Line 19 for ghost-cancelling reference signals. APTS Comments at 30-1.

IV. CHANNEL POSITIONING

A. Resolution of Disputes Over Desired Channel Position

The Act gives noncommercial stations the option of electing to be carried on either the channel on which they were carried on March 29, 1990, or their off-air channel.

Continental Cablevision asks the Commission to read into this otherwise unambiguous statutory provision a broad exemption giving a cable operator complete channel positioning discretion whenever it could show that carriage on a station's off-air channel would create technical difficulties. Continental Comments at 17-20. Even if the language of the Act could be read as permitting the Commission to construct such an exemption, and it cannot, such a policy would be unwarranted and unwise.

Continental argues that in some instances carriage of stations on their off-air channels creates ghosting and otherwise degrades the broadcast signal. Id. This is not a justification to remove from broadcasters their statutorily conferred discretion to choose a channel position from limited options or to negotiate with cable systems for mutually agreed-upon channels. Contrary to Continental's implication, broadcast stations have just as much incentive as the cable operator, and probably more, to see that their cable picture is as clean and free of degradation as possible. If a negotiated channel is preferable to an off-air channel, the Commission can surely rely on the broadcast stations themselves to agree to relocate to a suitable alternative channel.

In any event, it would clearly be inappropriate, as Continental suggests, to give a cable operator unfettered relocation discretion wherever the operator could demonstrate

technical difficulties with off-air channel carriage. Should it be necessary to relocate a station, the station should retain the right to approve any alternative channel.

B. Basic Tier v. Off-Air Channel Carriage

In its comments APTS observed that if, as may be the case in some older cable systems, there are technical difficulties in providing some stations with both carriage on off-air channels and carriage on the basic tier, the balance must be struck in favor of basic tier carriage for noncommercial stations. APTS Comments at 34.

APTS' comments were premised, however, on the factual assumption that there are indeed some systems for which this technical tradeoff is unavoidable and not a matter of marketing or competitive preference. As NAB notes, it has become common for cable systems, even those with relatively advanced technology, to designate any grouping of channels as the basic tier and to relocate broadcast stations to channels other than their off-air channels for purely marketing reasons. NAB Comments at 28.

The comments of cable operators only cast further doubt as to the legitimacy of claims of technical infeasibility. For example, Continental Cablevision asserts that if broadcast signals are "scattered through the line-up we can only offer the minimum basic tier envisioned by the Act if we specially program a converter to permit the receipt of particular channels." Continental Comments at 18. While the

"scattered basic tier," described by Continental, may be inconvenient, it is technically feasible, as is demonstrated by the TCI system in Washington, D.C. Continental also vaguely asserts that channel "repositioning" would require "headend rewiring, security and scrambling difficulties, and channel mapping and logistical problems with trap installation and removal." Continental Comments at 18. But the only specific example of such a problem cited by Continental is the possibility that on some systems simultaneous carriage of an off-air station on channel 2 and a scrambled signal such as HBO on the adjacent channel 3 would both "diminish viewability" on channel 2 and create "signal security problems" on channel 3. Continental Comments at 20. If indeed adjacent channel carriage can create such problems, the appropriate remedy would appear to be moving HBO off of channel 3, not depriving a must carry station of its right to be carried on channel 2. The desire to move the broadcast signal, rather than HBO, appears to be motivated by contractual or marketing reasons, not technical concerns.

APTS wishes to emphasize, then, that the Commission must require a rigorous showing by cable operators that there is in fact a substantial technical basis for depriving a noncommercial station of its off-air channel rights to secure basic tier carriage and that these "technical" reasons are not merely the cable operators' own marketing and capital

investment choices.[14] Moreover, as INTV, NAB and others noted, cable systems are in the process of major technological changes and plant upgrades that clearly hold the capability of mooting not only these channel positioning concerns but all of the technical issues addressed in this proceeding. INTV Comments at 17-18. The Commission should make it absolutely clear that cable systems cannot invest in upgrades and new transmission technologies that interfere in any way with their obligations under the 1992 Cable Act. Comments of APTS at 28.[15]

C. Preemption Of Carriage Contracts

Several cable entities suggested that the Commission ignore the plain language of the statute and permit cable operators to deny broadcasters their channel positioning rights where they have cable programming contracts which guarantee channel positioning or provide financial penalties for carriage on less favorable channels. See, e.g., Continental Comments at 20; Viacom Comments at 7-20. There is nothing in the Act, however, that could be construed as giving

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[14] The fact that it may be disruptive and confusing for subscribers for the cable operator to scatter basic tier channels (Tel-Com at 21) is not a sufficient reason to abrogate the clear requirements of the Act that a station be carried on its off-air channel (if it so chooses) and on the basic tier.

[15] Thus, should a cable system complete a technical upgrade that makes it possible for the first time to carry a basic tier station on its off-air channel, the system should be required to notify the station of that fact and give it the option to relocate to its off-air channel.