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Celeste Fasone  
Director

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STATE OF NEW JERSEY  
Board of Regulatory Commissioners  
Two Gateway Center  
Newark, NJ 07102

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
Office of Cable Television  
(201) 648-2670

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February 8, 1993  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

VIA FEDERAL EXPRESS OVERNIGHT MAIL

Hon. Donna R. Searcy, Secretary  
Office of the Secretary  
Federal Communications Commission  
Washington, DC 20554

Re: In the Matter of  
Implementation of Sections 11 and  
13 of the Cable Television Consumer  
Protection and Competition  
Act of 1992

MM Docket No. 92-264

Ownership Limits and Anti-Trafficking  
Provisions

Dear Ms. Searcy:

Enclosed please find an original and 12 copies of the  
comments of the Staff of the New Jersey Office of Cable  
Television for filing in the above matter. We have included  
copies for the Chairman, each Commissioner and Ms. Jacqueline  
Chorney.

Kindly place the office on the service list for this docket.

Please return one copy marked "Filed" in the enclosed  
addressed, stamped envelope.

Thank you for your consideration.

Very truly yours,

Celeste M. Fasone  
Director

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
MM DOCKET NO. 92-264

IN THE MATTER OF IMPLEMENTATION OF )  
SECTIONS 11 AND 13 OF THE CABLE )  
TELEVISION CONSUMER PROTECTION AND )  
COMPETITION ACT OF 1992 )

HORIZONTAL AND VERTICAL OWNERSHIPS )  
LIMITS, CROSS-OWNERSHIP LIMITATIONS )  
AND ANTI-TRAFFICKING PROVISIONS )

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COMMENTS  
OF THE STAFF OF THE  
BOARD OF REGULATORY COMMISSIONERS

The Staff (Staff) of the Board (Board) of Regulatory Commissioners respectfully submits these comments to the Federal Communication Commission (Commission) in regard to the interpretation and implementation of the cross-ownership and anti-trafficking provisions of the 1992 Cable Act.

Enforcement

In regard to Paragraph 8 of the NPRM, the Staff agrees that the franchising authority should have primary responsibility to monitor and enforce the anti-trafficking rule. The Board is the franchising authority for the State of New Jersey. The State of New Jersey has 48 cable systems. All are currently under the jurisdiction of the Office of Cable Television (OCTV) within the Board.

Review of Transfer and Sales

The Board is the franchising authority for the State of New Jersey and currently has jurisdiction to review and approve

transfers of ownership of cable systems pursuant to State statute (N.J.S.A. 48:5A-38, -40, -43). The Board has ongoing procedures for the review of these transfers.

The Staff further agrees that cable operators seeking to transfer ownership in a cable system must certify to the franchising authority that the proposed transfer satisfies the three year holding requirement or is exempt pursuant to the rule. Staff believes that the Commission should include specific guidelines for the granting of waivers in this regard. The application and certification should contain adequate financial data to enable the franchising authority and the Commission, in the case of waivers, to render a decision. The guidelines should contain a specific list of necessary data including system cost, financing terms of the transfer, and audited statements at a minimum.

#### Holding Period

In regard to paragraph 9, the Staff believes that all transfers of ownership in a cable system be subject to the three year holding requirement. The most inclusive application of this requirement is necessary to implement the intent of Congress to prevent profiteering transactions and other transfers that could affect cable television rates or service (House Report at 119). Staff believes that the definition of control also should be broadly applied to the actual operation, management or intent to do so. This is the essence of the New Jersey Cable Television Act of 1972, N.J.S.A. 48:5A-38 and -40, and -43.

Staff wishes to specifically comment that the franchising authority be given the widest latitude in regard to transfers of ownership, and the request of data to make a rational decision, consistent with the Cable Act of 1992. The local franchising authority is in the best position to review these transfers and determine the public interest based on its unique knowledge of local conditions. It is important to stress the necessity for complete and accurate information to be supplied promptly to the franchising authority by the cable operator. Insufficient data can render a rational decision by the franchising authority meaningless.

The running of any time deadlines for franchising authority decision must commence only on the complete filing by the operator of all requested data to the franchising authority.

In regard to paragraph 14, Staff believes that the three year holding period should be calculated, in the case of initial construction, from the date of activation of a newly constructed system. The period should begin to run, in the case of an acquisition or transfer, from actual closing date for the transfer or assignment agreement.

In regard to paragraph 19, the Commission should provide clear guidelines in its rules from the issuance of waivers by the Commission of the three year holding requirement. Such rules must be clear to eliminate uncertainty and be based on the financial ability of the operator to continue to deliver safe, adequate and proper service to all subscribers. The Staff

believes that cable operators should be required to secure franchising authority approval for a proposed transfer prior to seeking Federal waivers. This will eliminate unnecessary petitions to the Commission in this regard.

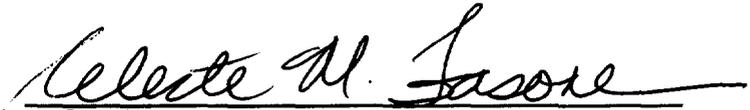
In regard to paragraph 22, the Staff believes most strongly and requests the Commission make absolutely clear in its rules that the 120 day franchising authority review period not begin to run until the cable operator has submitted all data, financial and otherwise to enable the franchising authority to make a reasonable determination. Extensive problems have arisen in the past with the sufficiency of this information as supplied by the cable operator. The Commission's regulations should require at a minimum, for both parties to the proposed transaction, all financial data in an audited format, ownership data, all operating data. If applicable, such additional information must be submitted as required by applicable existing local statutes and regulations such as N.J.A.C. 14:12-6.14.

These local standards should be permitted to continue, even if more extensive data is required than the federal standard. This is especially true when there is already an existing statewide franchising authority such as the Board operating on a state level. We agree that a comprehensive federal minimum standard is required but emphasize that the franchising authority be permitted to request any additional information that may be necessary to evaluate a particular transfer.

Respectfully submitted,

Staff of the  
OFFICE OF CABLE TELEVISION  
BOARD OF REGULATORY COMMISSIONERS

By:

  
Celeste M. Fasone  
Director

Dated: February 8, 1993