defined and rates should be unreasonable if they exceed some overall limit, as well as an individual limit.[168] We disagree vehemently, however, about how the level considered unreasonable should be set and what items should be considered in the bundle.

4. DEGRADATION OF QUALITY MUST BE PREVENTED

The cable industry recognizes that degradation of quality will be a likely strategy of cable operators:

> Rate regulation is markedly less effective to the extent that the regulated entity is able to vary the content and quality of its product. Capping prices of a seller that supposedly possesses market power will not effectively eliminate excess profits if the seller is able simply to reduce its cost and offer an inferior product at the regulated price.[169]
>
> Any binding restriction on the total basic service rate may provide a disincentive for the operator to incur the costs of enhancing the mix, level, or quality of basic services (as measured, for example, by the amount of detail about basic service in program guides, by varying the signal quality of basic service, or by the choice of distribution technology).[170]

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[168] Owen, op. cit., at 18, discusses a basket approach.

[169] Comments of NCTA at 56.

[170] Besen, op. cit., at 16.

D. CONCLUSION

Each of the key elements in our proposal are admitted as crucial economic factors by the industry commentors. Consider our proposed rate formula, which can be described as follows:

BASIS MONTHLY RATE IN YEAR N = [(1993 CHANNEL RATE x GNPPI) - AD REV]

x (1993 CHANNELS/YEAR N CHANNELS)

x PROGRAM QUALITY INDEX

x NUMBER OF CHANNELS IN TIER

SUBJECT TO THE CONSTRAINT THAT THE MAXIMUM MONTHLY BUNDLE PRICE IS LESS THAN TRADITIONAL BASIC BUNDLE (MUST CARRY PLUS TOP 30 NATIONAL CABLE NETWORKS)

We identify a base rate, which was derived on a per channel basis with an inflator. We insist that future rates must be calculated with the number of channels in the denominator. This recognizes both the declining-cost-as-channels-rise nature of the industry, as admitted by the industry, and the explicit Congressional prohibition on marginal cost pricing.

We adjust that base rate for the number of top thirty national cable networks offered, compared to the maximum offered since deregulation. This takes into account and deters the tendency of cable operators to degrade quality in the basic tier, as admitted by the industry, and recognized by Congress in its strong stand against evasion.

Finally, we subject the monthly rate for basic tier and cable programming service to an overall constraint, which is a basket of basic and cable programming services, equal to traditional national cable networks plus must carry (i.e., broadcast and PEG) or retransmission services. This responds to the industry's tendency to move popular programming out of the basic tier demonstrated by recent retiering. Such a constraint is necessary to ensure that retiering "evasions" do not harm consumers.

CFA believes the Commission should adopt the rate formula, equipment and service provision requirements that we proposed in our initial comments. These proposals are consistent with the 1992 Cable Act and supported by the factual evidence submitted to the Commission in this proceeding.

Respectfully submitted,

Gene Kimmelman
Legislative Director

Bradley Stillman
Legislative Counsel

Attorneys for the
Consumer Federation
of America

Dr. Mark N. Cooper
Research Director

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