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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

February 10, 1993

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1919 M Street, N.W.
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
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COMMENTS REGARDING DOCKET NO. 92-266
CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION
ACT OF 1992

I am writing in regard to your sections 30-48 (pgs. 19-29) in Docket No. 92-266 regarding cable rate regulation. I am writing based on my own extensive experience in the cable television industry outside of Washington, DC.

i) From 1983 to 1986, I was staff attorney for American Television and Communications Corporation (ATC) in Englewood, Colorado. At ATC, the nation's second largest multiple cable television system operator, I was extensively involved in the acquisition and divestiture of cable television systems including the acquisition of Group W Cable and the creation of Paragon Cable. In addition, as counsel to the company's new business development group, I provided legal guidance in connection with major developments in technology, programming and foreign ventures.

ii) From 1986 through 1987, as Senior Attorney for Viacom International, Inc., in Pleasanton, California, I represented Viacom Cable in several matters involving municipal regulation by large franchising authorities (e.g., San Francisco) and in obtaining consent to transfer over one hundred (100) franchises when Viacom was acquired by a third party.

iii) From 1987 to the present, I served as Vice President and then Senior Vice President/Legal of Cencom Cable Associates, Inc., in St. Louis, Missouri. During that period, Cencom grew from 140,000 cable subscribers to serving over 550,000 subscribers in thirteen (13) states from California to the Carolinas. Cencom was recognized by Inc. magazine as one of the fastest growing private companies in America for four consecutive years. As general counsel, I had responsibility for all legal matters affecting the company including regulatory compliance.

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In my personal capacity as a long-term participant in the cable industry, I want to urge the Commission to adopt the benchmark- Local Service Price Index regulatory mechanism for establishing and adjusting the rate for basic cable service. While all cable systems distribute similar national programming, cable systems are essentially local businesses that vary drastically dependent on local market conditions. In my experience, these local conditions depend on two primary factors: a) the cost of local services as determined by the nature and health of the local economy; and b) the scope and degree of local regulation imposed by the applicable franchising authority or authorities. Moreover, since a majority of cable franchises are coming up for renewal during the next five (5) years, the local regulatory burdens and obligations of cable operators will soon be redefined.

While it may be hoped that an annually-adjusted national benchmark may preempt the need for local rate regulation, the fact is that local market costs and conditions vary radically and some adjustment may be appropriate at the local level. Accordingly, once a national benchmark is established, the benchmark should be subject to subsequent local adjustment at the option of the cable operator to take into account the following:

- i) The regulatory costs and costs of mandated services (i.e. PEG channels) imposed by the local franchise; and
- ii) Differences and changes in the Local Service Price Index from the all-city average of the Consumer Price Index in effect on the date the initial benchmark is established.

Alternately, the foregoing criteria could be incorporated into a formula for determining the appropriate benchmark. These standards would have the benefit of truly and fairly recognizing the vast operating cost differences among cable systems. They have the further advantage of being relatively easy to determine objectively without the burden of full cost-of-service regulation.

Accordingly, for these reasons I support the Commission's proposal to adopt a benchmark approach subject to local adjustment in recognition of varying regulatory burdens and the Local Service Price Index.

Respectfully submitted,



Theodore W. Browne