

CARTER, LEDYARD & MILBURN

COUNSELLORS AT LAW

1350 I STREET, N. W.

SUITE 870

WASHINGTON, D. C. 20005

(202) 898-1515

FAX: (202) 898-1521

2 WALL STREET  
NEW YORK, N. Y. 10005  
(212) 732-3200

114 WEST 47TH STREET  
NEW YORK, N. Y. 10036  
(212) 944-7711

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February 16, 1993

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**BY HAND**

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

Re: Development of Competition and Diversity in  
Video Programming Distribution and Carriage,  
MM Docket No. 92-265

Dear Ms. Searcy:

Enclosed are an original and nine copies of the Reply Comments of Liberty Media Corporation in this proceeding. We would appreciate your assistance in distributing a personal copy of Liberty's Reply Comments to each Commissioner.

Thank you for your assistance in this matter.

Very truly yours,

*Robert Hoegle*  
Robert L. Hoegle

RLH:sss  
Enclosures

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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )

Implementation of Sections 12 and 19 )  
of the Cable Television Consumer )  
Protection and Competition Act of 1992 )

MM Docket No. 92-265

Development of Competition and )  
Diversity in Video Programming )  
Distribution and Carriage )

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OFFICE OF THE SECRETARY

REPLY COMMENTS OF LIBERTY MEDIA CORPORATION

Robert L. Hoegle  
Timothy J. Fitzgibbon  
Carter, Ledyard & Milburn  
1350 I Street, N.W.  
Suite 870  
Washington, D.C. 20005  
(202) 898-1515

Attorneys for  
Liberty Media Corporation

February 16, 1993

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### SUMMARY

In seeking rules that promote their commercial interests, a number of commenters argue that the Commission need not incorporate the "critical threshold requirement" of competitive harm in its regulations implementing Section 628(b) because Congress already has found that the practices identified in Section 628(c) cause competitive harm. Such arguments, which are offered without any support, are contrary to the express terms of Section 628 and inconsistent with its legislative history.

Notwithstanding the Commission's explicit request, no commenter provided specific factual information demonstrating competitive harm from alleged discrimination. The record in this proceeding clearly establishes that, with rare exceptions, satellite cable and broadcast programming is widely available to alternative distribution media. Alternative technology commenters generally concede that adequate programming is available but complain that they pay more for programming than cable operators. However, despite the price differentials identified by various distributors, there is no evidence that such differentials significantly hinder or impede their distribution of video programming. The existence of such anticompetitive "purpose or effect" is belied by the substantial growth rates of alternative distributors and by

the retail pricing and program offerings of those distributors alleging the widest wholesale price disparities.

Recognizing that the application of Section 628 depends on the Commission's attribution standard, numerous commenters propose a variety of restrictive standards. Some advocate the adoption of broadcast attribution standards developed to regulate horizontal relationships and to address "unique" diversity concerns identified by the Commission. Others propose even stricter attribution standards based on tortured interpretations of the statute. Their unprincipled proposals have a single unifying theme -- to expand the scope of Section 628 as broadly as possible. Instead, as the NTIA has recognized previously, control is the appropriate standard to promote the Congressional goal of increased economic competition in the distribution of video programming.

Various alternative distribution media advocate rules requiring uniform prices, terms and conditions in the sale of programming, thereby eliminating any programmer discretion or negotiation. Each apparently seeks a statutory entitlement to the lowest price offered to any distributor regardless of the differences among distributors or the services provided to them. The Commission must confirm that differences among services and their value, distribution media customers, and the methods by which distributors market such services all provide justifiable bases for differences among

prices, terms and conditions. In this proceeding, commenters have identified numerous such differences which are consistent with analogous principles under Section 202 of the Communications Act, the Robinson-Patman Act, and international trade regulations.

Because of such differences, Liberty suggests that, if the Commission determines to adopt "reasonable regions" of price differentials, at least two regions are necessary -- one for HSD "distributors" and another for cable, SMATV and MMDS operators which provide distribution systems. Further, each region must be sufficiently large to encompass these kinds of differences and should be expressed in percentage or actual dollar terms as appropriate.

Uniform volume discounts available to all customers -- treating affiliated and unaffiliated customers the same -- are not discriminatory. Further, volume discounts will be available to both large and small distributors through cooperatives and other purchasing agents. "Legitimate economic benefits" such as increased advertising revenue and promotion and transaction cost savings plainly justify volume discounts.

Congress has not granted to the Commission, expressly or otherwise, retroactive rulemaking authority. Moreover, even if the Commission had such authority, the record before it makes clear that the invalidation of existing programming agreements would be a singularly unwise exer-

cise of that authority. Virtually every programmer commenting in this proceeding has confirmed that it entered into binding program acquisition and/or production agreements based on its existing carriage agreements. Any attempt to reconstruct the bargaining history and marketplace conditions present at the time pre-existing contracts were negotiated would be a daunting and likely impossible task far beyond the resources of the Commission and programmers.

Freely negotiated grants of exclusivity by new programming services should be recognized as a legitimate means to induce distributors to promote and market those services, thereby fostering the Commission's goal of programming diversity. Likewise, the introduction of existing programming services to new geographic markets or to new technologies follows the same logic and offers the same benefits. Liberty respectfully submits that the Commission should expressly recognize that exclusivity is in the public interest under these circumstances.

Section 628(d) requires that complainants be "aggrieved" by allegedly violative conduct in order to commence an adjudicatory proceeding at the Commission. It is well established that an "aggrieved party" has standing only if it has suffered "injury in fact" to an interest "arguably within the zone of interest" protected by the underlying statute. Here, Section 628(b) has identified the injury that

complainants must plead and prove -- that allegedly violative conduct "hinder(s) significantly" or "prevent(s)" that complainant from providing satellite cable or broadcast programming to viewers.

No commenter in this proceeding has claimed that it has been a victim of the discrimination, coercion or retaliation to which Section 616 is directed. However, several programmers demonstrate the benefits of cable operator investment and of negotiated exclusivity. Consequently, the Commission must make clear that cable operators may negotiate with existing or prospective programmers regarding programming investments and carriage. Its Rules should be limited to threats of external pressure, concerted action or similar coercive conduct, as distinguished from mere negotiations.

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REPLY COMMENTS OF LIBERTY MEDIA CORPORATION

Liberty Media Corporation ("Liberty") submits these Reply Comments in response to selected comments filed in this proceeding. Under the guise of the Cable Television Consumer Protection And Competition Act of 1992 ("1992 Cable Act"), various "distributors" of video programming seek to promote their financial self-interest by imposing upon cable affiliated programmers a host of regulatory constraints which neither benefit the consumer nor foster competition. Absent clear injury to competition, the "public interest" cannot be served by substituting rigid uniformity or the Commission's judgment for marketplace forces.

Preliminary Statement

The Commission's regulations implementing Sections 12 and 19, along with those to be adopted in MM Docket No. 92-264, represent the Commission's first attempt to regulate

the relationship between multichannel video programming distributors and satellite cable programmers. The record in this proceeding compels two conclusions: (1) Inappropriate regulation of programming services could have damaging and far-reaching effects on the quantity and quality of programming available to American consumers; and (2) Absent guiding principles from the Commission, distributors, programmers and the Commission will be embroiled in endless litigation.

Carriage agreements are an integral part of the programming marketplace. Numerous programmers have explained that broad carriage of programming services provides the subscriber base necessary to launch new services and that existing carriage agreements and anticipated revenues from those agreements form the basis for other contracts, including those for program acquisition and production. Unreasonable government intrusion into one side of this equation -- for example, regulations restricting a programmer's ability to provide price and other incentives to obtain carriage whether through cable or another distribution medium -- undoubtedly would adversely affect programmers and reduce the quantity and quality of programming available to consumers.

Nevertheless, commenters representing various distribution media urge the Commission to require complete uniformity of the prices, terms and conditions for sale of video programming or to engage in comprehensive regulation of pro-

grammers solely to further their own financial interests. Without any factual showing of competitive harm, they seek to sweep aside the numerous differences among programming services, distribution technologies and operations, marketing methods, customer needs, and competitive conditions. In short, without showing any public interest benefit, alternative distribution media would have the Commission serve as a national program clearinghouse, setting the prices, terms and conditions of program sales nationwide. Neither the Constitution nor the Communications Act permits such far-reaching government intrusion into the programming marketplace.

I. The Commission's Regulations Under Section 628(c) Must Incorporate Each Of The Elements Required For Prohibited Conduct Under Section 628(b).

Contrary to the interpretations espoused by many of the multichannel video distribution commenters in this proceeding, Section 628 does not replace the programming marketplace with economic socialism. Those who would read Section 628(c) as mandating a "one-size-fits-all" approach to the prices, terms and conditions of programming agreements -- regardless of the effect on the distribution of satellite programming to consumers -- simply ignore the express terms of the statute and the legislative intent behind it. Section 628 is intended only to address demonstrable marketplace imbalances that arise where vertically-integrated cable operators

have the ability and incentive to use their programming interests to discriminate against competing distribution media.

A. Section 628 Requires That Commission Regulations Prohibit Conduct Which Is "Unfair" Or "Deceptive" And Significantly Hinders Or Prevents Distribution.

In seeking whatever regulations will commercially benefit them, a number of commenters contend that the Commission need not incorporate the "critical threshold requirement" of Section 628(b) in any regulations adopted under subsection (c) because Congress already has found "that the practices listed in subsections 628(c)(2)(A)-(D) cause competitive harm." Comments of the American Public Power Association ("APPA") at 12; see also Comments of Coalition of Small System Operators ("Small System Coalition") at 7 ("any time that a vertically integrated cable operator engages in discriminatory pricing, there is automatically a violation of the Act"); Comments of DirecTV, Inc. ("DirecTV") at 12 ("Congress has already found that the types of behavior enumerated in Section 628(c)...are inherently unfair practices that hinder competitors from providing cable programming to subscribers"); Comments of CableAmerica Corporation at 26 (no showing is required under Section 628(c) "that the discrimination prevented or significantly hindered the complainant from serving customers").

These arguments are contrary to the express terms of the statutory prohibition. Section 628(b) requires that prohibited conduct be "unfair" or "deceptive" and have the "purpose or effect" of hindering significantly or preventing "any multichannel video programming distributor from providing satellite cable programming or satellite broadcast programming to subscribers or consumers." Section 628(c)(1) states that the Commission is authorized only to prescribe regulations "to specify particular conduct that is prohibited by subsection (b)." Thus, the "basic threshold requirement" of Section 628(b) -- significant hindrance or prevention of distribution of satellite programming to consumers -- must be incorporated in the regulations under subsection (c).

Proponents of the argument that Congress found "that the practices listed in subsections 628(c)(2)(A)-(D) cause competitive harm" cite nothing to support their interpretation, which also is inconsistent with other provisions of Section 628 and its legislative history. If Congress already had determined that such practices "cause competitive harm," it would not have included among the public interest factors to be considered by the Commission in evaluating exclusive contracts under subsection 628(c)(2)(D):

- (A) the effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

(B) the effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable.

See Section 628(c)(4)(A) and (B). Instead, it would have instructed the Commission to presume such harm and balance it against the other public interest factors listed in subsections 628(c)(4)(C) through (E). Clearly, Congress made no finding that the practices enumerated in subsection 628(c) necessarily have anticompetitive effects.

The mechanisms established by Congress to enforce Section 628(c) confirm that Congress made no such finding. Congress specifically required that a multichannel video programming distributor commencing an adjudicatory action at the Commission under Section 628(d) be "aggrieved" by the respondent's conduct, whether it alleges that the conduct "constitutes a violation of subsection (b), or the regulations of the Commission under subsection (c)" (emphasis added). As set forth infra at 36-39, a party "aggrieved" must show injury-in-fact. Congress would not have imposed this kind of injury-in-fact requirement on complainants alleging a violation of Section 628(c) if it already had determined that such conduct necessarily causes competitive injury. Similarly, Congress would not have restricted the Commission's authority to grant the relief provided under Section 628(e)(1) only "to the aggrieved multichannel video programming distributor" if it had concluded that conduct described in Section 628(c) neces-

sarily results in competitive injury in all cases. Thus, there is no basis for the argument that the Commission need not include in its regulations under Section 628(c) the "critical threshold requirement" of competitive injury under Section 628(b) because Congress has presumed such injury.

Finally, the legislative history of Section 628 confirms that the Congressional proponents of the access provisions contained in Section 628 viewed those provisions as "critical to providing competition in the video distribution industry." Cable Television Consumer Protection and Competition Act of 1992, H.R. Rep. No. 628, 102d Cong., 2d Sess. 165 (1992) ("House Report") (Additional Views of Messrs. Tauzin et al.). Specifically, the provision is intended to ensure that competing multichannel video distribution technologies may "acquire programming substantial enough to attract a viable subscriber base and so promote competition." Id. Thus, the Commission should limit its regulations under Section 628(c) to those instances in which marketplace imbalances deprive alternative distributors of access to "programming substantial enough attract a viable subscriber base," whether through outright denial of access or through prices, terms and conditions so unreasonable or inequitable as to amount to a denial of access. See United States v. O'Brien, 391 U.S. 367, 377 (1968) ("incidental restriction on alleged First Amendment freedoms [must be] no greater than is essential to the fur-

therance" of substantial government interests). The Commission should not, however, interfere in the marketplace where programming is available to such distributors at prices, terms and conditions which do not prevent or substantially hinder them from providing programming to consumers. Regulation under those circumstances goes beyond the prohibition of Section 628 and would be constitutionally unsound. See Quincy Cable TV, Inc. v. F.C.C., 768 F.2d 1434, 1459 (D.C. Cir. 1985), cert. denied, 476 U.S. 1169 (1986) (regulations may "not gratuitously impinge on protected activity that poses no threat to the interest" which the government seeks to further).

B. The Record In This Proceeding Does Not Suggest That Alternative Distributors Are Being Prevented Or Significantly Hindered From Distributing Programming To Consumers.

The comments submitted in this proceeding clearly establish that, with rare exceptions, satellite cable and satellite broadcast programming is widely available to alternative distribution technologies. The National Programming Service ("NPS"),<sup>1</sup> the "largest independent packager of satel-

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<sup>1</sup> NPS is a division of Consumer Satellite Systems, Inc., "one of the largest wholesale distributors of home satellite dish television ("HSD") equipment in the United States." Comments of Consumer Satellite Systems, Inc. ("CSS") at 3.

lite programming in the country,"<sup>2</sup> unequivocally states that it "has access to virtually every satellite cable programming and satellite broadcast service," a fact confirmed by the program listings attached as Exhibit A to its comments. CSS Comments at 3, 8 and Exhibit A.<sup>3</sup> Comments submitted by cable overbuilders, as well as SMATV and MMDS operators, demonstrate that satellite cable and satellite broadcast programming are widely available to those technologies as well.

For example, the National Satellite Programming Network, Inc. ("NSPN") describes itself as a "purchasing agent" for "over nine hundred (900) member companies" which are "primarily SMATV and Multichannel Multipoint Distribution Services ('MMDS') systems." NSPN Comments at 2-3. NSPN states that it currently offers to its members "fifty-nine (59) programming services (including HBO and Showtime)." Id. at 2. In fact, it offers so much programming that none of its members takes more than two out of three of the programming services NSPN makes available. See NSPN Comments at 5 ("Some NSPN members carry as many as thirty-eight (38) programming services through NSPN").

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<sup>2</sup> According to NPS, it "currently serves more than 140,000 subscribers." CSS Comments at 3.

<sup>3</sup> Advertisements from Satellite ORBIT magazine, the "leading guide to what's on satellite television," (Satellite ORBIT, Dec. 1992, at 4) and various program packages offered by Wyoming Rural Telecommunications are collectively annexed as Exhibit 1. They confirm that other independent HSD program packagers also have access to a wide array of programming.

Clearly, SMATV and MMDS members have access to sufficient programming choices, through NSPN or otherwise, to enable them to compete with cable operators. In fact, Liberty Cable Company, Inc. ("Liberty Cable"), a SMATV operator in New York City, filed a formal complaint with the Commissioner of the New York City Department of Telecommunications and Energy ("Commissioner") against the franchised cable operator based in part on the operator's claims that its program offerings were more comprehensive than Liberty Cable's. Specifically, Liberty Cable claimed that the franchised cable operator had "falsely state[d] that 'Liberty's programming choices are not as comprehensive as ours.'"<sup>4</sup> Liberty Cable provided the Commissioner with a copy of its program offering which it stated "is vastly superior to the programming" offered by the franchised cable operator. Liberty Cable Comments, Exhibit A to the Affidavit of Peter O. Price, at 2.

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<sup>4</sup> However, notwithstanding its "vastly superior" programming, Liberty Cable simultaneously complains that it has been "singled out for discrimination" by being denied access to Court TV, a service which is received by fewer than fifteen percent of all cable households. Liberty Cable Comments, Affidavit of Peter O. Price, at 5; Cablevision, Sept. 21, 1992, at 54. Liberty Cable provides no information regarding its penetration levels at any of the multiple unit-dwellings where it offers SMATV service, nor does it provide a single instance in which a subscriber elected the franchised cable service over its SMATV service because Liberty Cable could not provide Court TV. Finally, Liberty Cable never explains why, rather than expending time, effort and money for two and a half years in allegedly attempting to get Court TV, it did not simply provide its own television coverage of any of the numerous courts located in Manhattan. See Liberty Cable Comments at 22.

Alternative distribution commenters generally concede that adequate programming is available but complain that they pay more for programming than cable operators. See, e.g., NSPN Comments at 8 ("NSPN routinely...pays higher fees for the same programming than is paid by cable"); Comments of the National Private Cable Association, MaxTel Associates Limited Partnership, MSE Cable Systems and Pacific Cablevision ("NPCA") at 4 ("Programmers who are affiliated with cable systems regularly discriminate against non-affiliated MVPD's in the pricing of their programming"); CSS Comments at 8 ("NPS now has access to programming" but not "on fair and equitable terms"). However, no alternative distribution commenters provide information which would enable the Commission to evaluate the effect of the alleged price differentials on the fundamental issue of concern to Congress in enacting Section 628 -- their ability to compete with cable operators in the distribution of programming to consumers.

Certain HSD "distributors"<sup>5</sup> complain loudly that they pay more than other distribution technologies for the same satellite programming. CSS Comments at 8-13; Comments of

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<sup>5</sup> As set forth in Liberty's initial comments at 27-28, HSD "distributors" do not actually distribute programming. Rather, they package programming services offered and delivered by others, bill and collect from subscribers to those "packages" and, in some cases, authorize and deauthorize subscribers through the DBS Center. However, they have no video distribution facilities in contrast to cable, SMATV and MMDS operators.

the National Rural Telecommunications Cooperative and Consumer Federation of America ("NRTC") at 5-6. For example, NPS contends that it pays \$6.63 per month for a group of programming services -- including CNN, Headline News, Nickelodeon, MTV, USA and ESPN -- and that SMATV operators pay only \$1.87 per month for the same services. CSS Comments at 9. Even assuming the validity of NPS's complaint that it pays four times what an SMATV operator pays, NPS provides no analysis of how that difference affects its ability to compete with the favored SMATV operator in distributing satellite programming to consumers.<sup>6</sup> Moreover, NPS provides no information about how the alleged price differential affects its retail prices vis-a-vis the prices of competing distributors. Exhibit A to the CSS Comments indicates that NPS would charge retail subscribers \$117 per year for the services listed above.<sup>7</sup> Based on an annualized program cost of \$79.56 ( $\$6.63 \times 12$ ), NPS's mark-up of that programming is over 45 percent. Despite the

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<sup>6</sup> NPS does not compete functionally and geographically with the allegedly favored distributor -- the first requirement for competitive injury. See Liberty Comments at 6-7. Because SMATV operators typically serve only large "multiple unit dwellings," it is unlikely that an HSD "distributor" would compete for customers with the SMATV operator. The latter's individual customers in most cases cannot use the "6 to 12 foot receiving antennas" necessary for C-Band HSD service. See NRTC Comments at 3.

<sup>7</sup> CNN and Headline News -- \$21 per year; Nickelodeon -- \$27; MTV/VH-I -- \$33; USA Network -- \$10; and ESPN -- \$26. The Exhibit also notes that purchasers of USA Network receive BET, the Learning Channel and E! TV on a "complimentary" basis.

substantial margin between its retail price and wholesale programming cost, this program package -- which includes the three most popular cable programming services and five of the top eight services -- is available from NPS for only \$9.75 per month.

Other advertisements by independent HSD program packagers in Satellite ORBIT confirm that substantially diverse programming packages are available to consumers at competitive prices. For example, NPS offers a 16-channel "Starter Pak" service for \$10.95 per month; a 23-channel "Family Pak" service for \$18.95 per month;<sup>8</sup> a 27-channel "Star-Pak Basic" service for \$199 per year (\$16.58 per month); and an HBO Value Pak featuring 24 channels and including two premium services and eight premium service feeds<sup>9</sup> for \$249 per year (\$20.75 per month). See Exhibit 1 at 1-2. Pay services are also available to HSD subscribers at favorable prices. Satellite Source offers a package of five HBO feeds plus three Cinemax feeds, or three Showtime feeds plus two Movie Channel feeds for just \$87 per year or \$7.25 per month. See Exhibit 1 at 2. In addition, numerous unscrambled services and "wild

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<sup>8</sup> Subscribers to the Starter Pak and Family Pak services receive three additional channels, BET, the Learning Channel and E! TV free. See Exhibit 1 at 1-2 for the specific services included in each package.

<sup>9</sup> Pay services like HBO and Showtime have an East and a West feed as well as multiplexed channels.

feeds" are available to HSD owners. See Satellite ORBIT, Dec. 1992, at B42-43.<sup>10</sup>

The notion that comprehensive regulation under Section 628 is required to redress widespread "unfair" or "deceptive" practices by vertically integrated programmers which have the purpose or effect of significantly hindering or preventing alternative distributors from providing programming to consumers is also contradicted by the phenomenal growth of those distributors. NPS did not exist until 1987. Today, NPS claims to serve more than 140,000 HSD owners, making it "as large as the nation's 57th ranked multiple system cable operator." CSS Comments at 5. Similarly, NRTC served fewer than 5,000 subscribers in 1987. See NRTC "Corporate Chronology, 1984-1991." Today, it serves over 70,000 HSD subscribers. NRTC Comments at 3. According to the Wireless Cable Association International, Inc. ("Wireless Cable"), the number of systems (100) and subscribers (600,000) has more than doubled since 1990. Wireless Cable Comments at 9; Competition, Rate Deregulation and the Commission's Policies Relating to the

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<sup>10</sup> Although the retail prices of such programming packages appear to be lower than cable offerings, HSD "distributors" attempt to increase the cost of HSD service by inflating equipment costs. For example, NPS bases its comparison on equipment costs of \$2,500 financed at 10 percent interest and fully depreciated over four years. NPS Comments at 15 n.20. In fact, Wyoming Rural Telecommunications offers a "complete system" for HSD service, including remote control, for as little as \$1,360. Further, NPS's comparison ignores auxiliary equipment costs such as converter and remote control charges paid by cable subscribers.

Provision of Cable Television Service, 5 FCC Rcd. 4962, 5014 n.144 (1990) ("Report to Congress").<sup>11</sup> Clearly, the record in this proceeding does not suggest that prices, terms and conditions pursuant to which these distributors obtain programming are preventing or significantly hindering them from providing satellite programming to consumers.

II. Proponents Of Broadcast Or Other Restrictive Attribution Standards Ignore The Fundamental Purpose Of Section 628.

Recognizing that the application of Section 628 depends on the Commission's attribution standard,<sup>12</sup> numerous commenters advocate a variety of restrictive standards. Their unprincipled proposals have a single unifying theme -- to expand the scope of Section 628 as broadly as possible to further their respective financial interests and regulatory agenda. Instead, as the NTIA has recognized previously, control is the appropriate standard to promote the Congressional

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<sup>11</sup> Wireless Cable also indicates that wireless cable systems would be growing at an even faster rate but for "the well-documented barriers to entry imposed by the Commission's convoluted licensing scheme." Wireless Cable Comments at 9. See also Amendment of Parts 1, 2, and 21 of the Commission's Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands, FCC 93-31 (rel. Feb. 12, 1993), at ¶3.

<sup>12</sup> Subparagraphs (b) and (c) of Section 628 apply to "satellite cable programming vendor[s] in which a cable operator has an attributable interest." In addition, Section 628(c)(2)(A) applies to "a cable operator which has an attributable interest in a satellite cable programming vendor."

goal of increased economic competition in the distribution of video programming.

A. Highly Restrictive Attribution Standards Are Unnecessary And Inappropriate.

Advocates of a broadcast attribution standard include the regional Bell operating companies and various alternative distribution media. See, e.g., Comments of the Ameritech Operating Companies ("Ameritech") at 6; Comments of Advanced Communications Corporation ("ACC") at 4; CSS Comments at 13. The telcos generally argue that broadcast attribution standards should apply "equally to television broadcasters, cable operators and telephone companies under all the Commission's rules." Comments of BellSouth Telecommunications, Inc. at 11; see also Ameritech Comments at 6 ("The rules throughout the industry should be the same"). Other proponents of the broadcast standard argue that its application will eliminate "uncertainty" or "misunderstanding or misinterpretation of the rules" because the Commission "has vast experience interpreting and implementing these provisions." See ACC Comments at 4-5. Their proposals and supporting arguments ignore the fundamental differences among the regulation of television broadcast ownership pursuant to Section 73.3555 of the Commission's Rules; the regulation of cable/telco cross-ownership under Section 63.54 of the Commission's Rules; and the regulation of affiliated programmers under Section 628. These