

FEB 16 1993

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Implementation of Section 22 )  
of the Cable Television Consumer )  
Protection and Competition )  
Act of 1992 )  
 )  
Equal Employment Opportunities )

MM Docket No. 92-261 ✓

COMMENTS OF COLE, RAYWID & BRAVERMAN

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COMMENTS OF COLE, RAYWID & BRAVERMAN

INTRODUCTION

The law firm of Cole, Raywid & Braverman, on behalf of the cable operators and associations listed below, hereby submit these comments in the above-referenced proceeding.

**I. THE NEW AND EXISTING JOB CATEGORIES REQUIRE ADDITIONAL CLARIFICATION TO PREVENT OVERLAP IN REPORTING AND REFLECT THE EMPLOYMENT REALITIES IN THE CABLE INDUSTRY**

The Cable Television Consumer Protection and Competition Act of 1992 (the "Act") imposes on cable television operators six new job categories for employment reporting. The new categories<sup>1/</sup> are in addition to the nine existing categories mandated by the Commission. The Act requires the Commission to

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<sup>1/</sup> The new categories include: (1) Corporate Officers, (2) General Manager, (3) Chief Technician, (4) Comptroller, (5) General Sales Manager and (6) Production Manager.

define the new job categories and authorizes it to reexamine and redefine existing job categories. To assist the Commission in this task, we suggest the following:

**Corporate Officers.** This senior level category is fraught with potential overlap with other categories. To prevent "double" counting, the definition of this category should make clear that the category is reserved for officer's titles which have not been otherwise classified. Thus, commonly used titles such as "Vice President and Controller" and "Vice President and General Manager" should be counted individually as "Comptroller" and "General Manager" for reporting purposes. Broader titles such as "Corporate Secretary" or not otherwise designated titles such as "Vice President of Legal Affairs" or "Vice President of Programming" would be counted as "Corporate Officers". Each title would be counted only once among the new categories.

**Chief Technician.** Many corporations in the cable industry have abandoned this title in favor of alternatives which are perceived to be more professional and accurate titles -- "Technical Operations Manager", "Technical Manager", "Plant Manager" or "Chief Engineer". Such a senior engineering individual, in addition to overseeing all technical operations, may be responsible for fleet supervision and maintenance, inventory control, tower leasing, profit and loss goals and budgeting and approving capital expenditures. The proposed definition reflects limited job requirements in a category that has evolved as substantially as the

capability of the cable system itself. In today's industry, a "Chief Technician" likely reports to a more senior technical manager at the system level at any one of the titles listed above. The Commission should clarify either that the newer industry titles are to be included in this job category or redesignate the category accordingly.

Finally, the Commission's description should recognize that all technical personnel may not report to the technical department. Studio technicians and engineers, also responsible for picture quality over the system, may report directly to a programming or production manager. Accordingly, a "Chief Technician" may not supervise all technical personnel and the description should be revised to include technical personnel in the installation, service, maintenance and construction departments.

**General Sales Manager.** This category is more accurately defined as a senior sales or marketing employee who oversees the marketing functions of the system which may include telemarketing in addition to direct sales. ("Direct sales" in the cable industry typically connotes door-to-door sales teams). Marketing may also include coordinating advertising and/or public relations campaigns. This category is a likely target for overlap as "Vice President of Marketing" or "Vice President and General Sales Manager" are sister titles to "General Sales Manager". Accordingly, this dual title should be counted once.

**Production Manager.** We propose that this category include the senior individual responsible for advertising and/or production of local community programming.

**Officials and Managers.** We suggest the following revision:

Occupations requiring administrative personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases or segments of a firm's operation or subdepartments of a major department.

**Technicians.** Category should specifically include drafters and design personnel, electronic converter repair technicians (technicians who perform more than clean and recycle functions) and advertising sales production personnel.

**Sales.** Category should include individuals engaged in direct customer contact for the purpose of product and service promotion.

**Operatives/Craft Workers.** Of the Commission's existing job categories, "splicers" have long been categorized as semi-skilled "Operatives". This is inaccurate. Splicing requires sophisticated map-reading ability, some engineering background and a high degree of manual dexterity for proper bending of the cable to prevent radiation leaks. Accordingly, such an employee should be classified as a skilled "Craft Worker".

Office/Clerical. The category fails to list by example the backbone of the industry, the Customer Service Representative ("CSR"). This title should therefore be inserted as a referenced example.

**II. SEPARATE REPORTING OF FULL AND PART-TIME EMPLOYEES NECESSITATES FURTHER DEFINITION OF FULL-TIME STATUS AND RECOGNITION OF THE SPECIAL CHARACTERISTICS OF PART-TIME WORKERS**

The Commission has historically distinguished part-time from full-time employees for EEO reporting purposes by defining part-time employees as those employees working less than 30 hours per week. However, now that Congress has directed that full-time and part-time reporting be separated, such a brightline distinction may not be appropriate. For example, an operator may employ individuals to work 40 hours per week and consider these individuals full-time employees. The same operator may hire direct sales representatives who are considered full-time, accorded full-time employee benefits but work sporadic hours rarely, if ever, totalling 40 hours per week. Accordingly, for the purpose of separate reporting, we suggest that full-time status include those individuals scheduled to work greater than 30 hours per week or otherwise considered by employers as full-time employees.

Beyond the technicalities of full-time and part-time reporting, the separate reporting raises a significant issue

relating to application of the Processing Guidelines particularly with respect to the employment of women and minorities in the Upper Four Categories. For the reasons set forth below, the Commission must clarify that its Processing Guidelines will be applied to the unit as a whole, not separately to full-time and part-time employee groups. A split review would highlight peculiarities of part-time employment which would be out of balance with the system's employment as a whole.

Specifically, telemarketing positions are inherently part-time positions. Full-time telemarketing positions do not exist because the job is strategically restricted to select daily hours, i.e., 7:00 to 9:00pm and weekend hours. If an operator chooses to add more telemarketing hours, he is limited to adding more workers at the same set hours. Part-time telemarketers are rarely promoted to full-time direct sales workers. But the nature of this position has proven attractive to women and the unemployed, a group which is today disproportionately made up of minorities. For many women, telemarketing offers some supplemental income and a flexible work schedule at a time when evening or weekend child care can be arranged. Telemarketing positions do not pose the same safety concerns which accompany direct sales positions. Unemployed individuals are attracted to telemarketing because it requires no prior experience and affords ongoing, immediate job openings.

If Processing Guidelines are applied separately to part-time and full-time workers, part-time analysis will show high percentages of female and minority hires but will also show an inordinately high proportion of turnover among women and minorities in sales where no promotion potential exists. This is due not only to the fact that employees accepting such a position often do so for a short-term financial purpose, but also because a large proportion of part-time telemarketing employees are rapidly discouraged by subscribers rejecting telemarketing offers. (The latter often accounts for high turnover among direct sales representatives as well.) Similarly, full-time reporting will be significantly impacted in the Upper Four Categories by separation of these employees. Therefore, in prescribing its rules, the Commission must clarify that the Processing Guidelines will be applied to the aggregate employment unit. In this way, the unique characteristics of these sales workers will be more proportionately balanced within the total employment profile of the individual employment unit.

**III. SECTION VII.B. OF THE PROPOSED REVISED FORM  
395-A SHOULD REQUIRE ONLY A LIST, NOT A  
NARRATIVE DESCRIPTION OF RECRUITMENT INFORMATION**

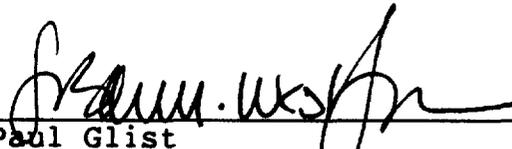
Section 22 of the Act requires operators to provide information on the hiring, promotion and recruitment practices

within the six new job categories necessary for the Commission to evaluate the efforts of operators to comply with its equal employment obligations. This requirement is in addition to burdensome, newly added job category reporting, separate full and part-time reporting and job title reporting. The Commission, in Section VII.B. of its proposed revised Form 395-A, requires operators to provide in narrative form detailed recruiting efforts. Such information is to include recruitment sources for each position, referrals from each source, gender and minority status of each referral, the number of applicants for each position, those interviewed, gender and minority status of each interviewee and referral source of each successful candidate, where such information is known or may be readily obtained. (This accounts for those individuals who refuse to provide such information.) In this instance, the Commission can streamline the reporting requirements by eliminating the requirement of a narrative response and requiring only a structured grid or list of these enumerated elements as sufficient to enable it to complete its inquiry. Specific reporting criteria, either by list or grid, will eliminate any guesswork as to the sufficiency of an answer an operator submits.

Respectfully submitted,

Century Communications Corp.  
TeleCable Corporation  
KBLCOM, Inc.  
Columbia International, Inc.  
Western Communications, Inc.  
Greater Media, Inc.  
Helicon Corp.  
Acton Cable Partnership  
Rock Associates  
Monmouth Cablevision  
Allen's Television Cable Service, Inc.  
Frederick Cablevision, Inc.  
Gilmer Cable Television Company, Inc.  
Halcyon Group, Inc.  
Zylstra Communications Corporation  
Cable Television Association of  
Maryland, Delaware and the  
District of Columbia  
Florida Cable Television Association  
Texas Cable Television Association  
West Virginia Cable Television

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