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

FCC 93-345

In the Matter of	)	
	)	
Implementation of Section 4(g) of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket No. 93-8
	)	
Home Shopping Station Issues	)	

REPORT AND ORDER

Adopted: July 2, 1993 **Released: July 19, 1993**

By the Commission: Chairman Quello and Commissioner Barrett issuing separate statements; Commissioner Duggan dissenting with separate statement.

TABLE OF CONTENTS

		Paragraph
I.	INTRODUCTION	1
II.	ARE HOME SHOPPING STATIONS SERVING THE PUBLIC INTEREST, CONVENIENCE, AND NECESSITY?	
	A. The Three Statutory Factors	3
	1. Viewership	4
	2. Competing Demands for the Spectrum	7
	3. Competition with Nonbroadcast Home Shopping Services	13
	B. Other Public Interest Factors	24
	1. Assumptions of Deregulation	25
	2. Services Provided by Home Shopping Stations	28
	3. Public Interest Obligations	29
	4. Effect on Minority Ownership of Television Stations	32
III.	PROCESS FOLLOWING PUBLIC INTEREST DECISION	
	A. Mandatory Carriage of Home Shopping Stations	37
	B. Coordination with the Must-Carry Rules	40
IV.	CONCLUSION	43
V.	ADMINISTRATIVE MATTERS	44

INTRODUCTION

1. By this Report and Order, the Commission adopts the rules and policies needed to implement the provision of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act of 1992" or "1992 Cable Act")[1] relating to stations that are predominantly utilized for the transmission of sales presentations or program length commercials ("home shopping stations") and issues regarding the carriage of such stations on cable systems.

2. On January 14, 1993, the Commission adopted a Notice of Proposed Rulemaking in this proceeding, commencing the implementation of Section 4(g) of the Cable Act of 1992.[2] That section of the 1992 Cable Act added a new Section 614(g) to the Communications Act of 1934, as amended, 47 U.S.C. Sec. 533(g), which requires the Commission to determine, regardless of prior proceedings, whether home shopping broadcast stations are serving the public interest, convenience, and necessity. That section further provides that the Commission shall consider in making this determination the viewing of home shopping stations, the level of competing demands for the spectrum allocated to such stations, and the role of such stations in providing competition to nonbroadcast services offering similar programming. The 1992 Cable Act further requires that if the Commission finds that these stations do serve the public interest, then it shall qualify them as local commercial television stations for the purposes of subsection (a), i.e., must-carry.[3] If the Commission finds that one or more such stations do not serve the public interest, then the Act requires that the Commission provide them with reasonable time to provide different programming. The overwhelming majority of comments in this proceeding contend that home shopping broadcast stations do serve the public interest, that their programming format does not adversely affect their renewal expectancy, and that they should be eligible for mandatory cable carriage. Based on the record before us, we conclude that home shopping stations serve the public interest, and we thereby qualify them

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[1] Pub. L. No. 102-385, 106 Stat. 1460 (1992).

[2] Notice of Proposed Rulemaking in MM Docket No. 93-8 (Notice), 8 FCC Rcd 660 (1993). The Commission received 58 Comments and nine replies in response to the Notice. Appendix A contains a list of commenters.

[3] The Commission recently adopted rules concerning the mandatory cable carriage of television broadcast stations in general. Report and Order in MM Docket No. 92-259 (Broadcast Signal Carriage Issues), 8 FCC Rcd 2965 (1993). In that proceeding, we defined on an interim basis stations that are predominantly utilized for sales presentations and program length commercials as stations devoting more than 50% of their programming to such commercial material. Id. at 2984.

as local commercial television stations for the purposes of mandatory cable carriage.[4]

ARE HOME SHOPPING STATIONS SERVING THE "PUBLIC INTEREST, CONVENIENCE, AND NECESSITY?"

The Three Statutory Factors

3. In this proceeding the Commission must evaluate, "notwithstanding prior proceedings," whether home shopping stations are now serving the public interest, convenience, and necessity.[5] In making this judgment, the 1992 Cable Act directs us to consider three specific factors: (1) the viewing of home shopping stations by the public; (2) the level of competing demands for the spectrum allocated to such stations; and (3) the role of such stations in providing competition to nonbroadcast services offering similar programming.

4. Viewership. Addressing the first of these factors, the Notice sought comment on the viewing of home shopping broadcast stations. To the extent data on the viewership (or "ratings") of such stations may not generally be reported, we asked how we can best determine the levels of viewership of home shopping broadcast stations.[6] Although commenters did not present specific ratings data,[7] several argued that conventional ratings are not the most appropriate method for ascertaining viewership. For example, the National Association of Broadcasters (NAB) and the National Association of Black Owned Broadcasters, Inc. (NABOB) assert that the quantity of viewers of a service does not reflect the importance of that service to those viewers.[8]

5. Several commenters suggested that the best way to gauge the viewership of home shopping stations is to determine how many people purchase

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[4] A number of commenters set forth proposed definitions for the term "predominantly utilized" as used in Section 4(g) of the 1992 Cable Act. For example, the Center for the Study of Commercialism (CSC) suggests that the Commission define the term so as to give special attention to long-form programming addressing minority or otherwise unmet community programming needs. CSC Reply at 14. However, based on our conclusions in this proceeding, the question of how to define, for the purpose of cable carriage, those stations that are predominantly utilized for home shopping is moot. Accordingly, we are eliminating the interim definition that we previously adopted. Broadcast Signal Carriage Issues at 2984.

[5] 47 U.S.C. Sec. 534(g)(2).

[6] Notice at 661.

[7] For example, although CSC implies that home shopping stations have low ratings, CSC Comments at 15, it does not supply data that support such a conclusion.

[8] NAB Comments at 7; NABOB Comments at 4.

the products sold by such stations.[9] Silver King[10] claims that seven to 15% of the television households in each of its markets (or approximately 27,526,600 households) are members of the Home Shopping Club.[11] Silver King and HSN add that, because more people watch than make purchases, these figures demonstrate that home shopping stations have substantial audiences.[12] A number of commenters contend that additional evidence of significant viewership of home shopping stations is their inception and rapid growth since 1984, when the format was first allowed.[13] In that regard, HSN states that its programming is carried "full time" by 35 television stations and part time by approximately 70 television stations, reflecting significant public acceptance for a format that did not exist a decade ago.[14] Furthermore, National Infomercial Marketing Association (NIMA) claims that the infomercial industry[15] has grown from product sales of $10 million in 1984 to over $750 million in 1992, at least half of which is attributable to broadcast infomercials.[16]

6. Based on the information before us, and with no quantifiable data demonstrating otherwise, we conclude that home shopping stations have significant viewership. Moreover, we agree with the commenters who state that the format's continued success and expansion would not likely occur without significant viewer support.[17] Having found that the first of the three

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[9] Silver King Communications, Inc. (Silver King) Comments at 44-45; Home Shopping Network, Inc. (HSN) Comments at 34-35.

[10] Silver King is the licensee of 12 stations that devote most of their broadcast day to HSN's programming.

[11] Silver King Comments at 46. Silver King states that purchasers of its products are automatically enrolled as members of the Home Shopping Club. Id. at 8, n. 11.

[12] Id. at 46; HSN Comments at 34-35.

[13] NAB Comments at 7-8; Silver King Comments at 45-46; HSN Comments at 33-34. In 1984, the Commission eliminated restrictions on the amount of commercial programming a station could broadcast, thereby making possible the home shopping format. Report and Order in MM Docket No. 83-670 (Television Deregulation), 98 FCC 2d 1076 (1984).

[14] HSN Comments at 33.

[15] NIMA defines an infomercial as a program-length commercial presentation that is usually 30 minutes in length. NIMA Comments at 2.

[16] Id. at 2, 5-6.

[17] In the Notice, we noted the possible First Amendment implications of basing our public interest determination on the popularity of a programming format. Notice at 661. However, Congress expressly directed the Commission to consider the viewing of home shopping stations in this proceeding.

Congressionally mandated factors suggests that home shopping stations are qualified for must-carry rights, we now turn to the second criterion.

7. Competing Demands for the Spectrum. The second factor on which we sought comment involves the level of competing demands for the spectrum allocated to home shopping stations. As an initial matter, we asked whether the 1992 Cable Act directs the Commission to consider the demands only of other television broadcasters or, more generally, those of applicants, permittees, and licensees in other services (such as land mobile and advanced television).[18] Commenters are divided on this matter. Several commenters argue that Congress did not intend for the Commission to reallocate spectrum from the broadcast service as a result of this proceeding. For example, NAB states that, by directing the Commission to allow home shopping licensees to develop other broadcast formats if their stations were found not to serve the public interest, Congress contemplated only broadcast uses for those channels.[19] Several other commenters also contend that this proceeding is not the appropriate forum to consider spectrum reallocation, because there is nothing unique about the spectrum (as opposed to the programming) utilized by home shopping stations.[20] On the other hand, CSC states that the plain language of the statute, as well as the legislative history, compels the broader interpretation.[21] In that regard, CSC argues that the spectrum could be better used for public safety, emergency, or high definition television use, as well as for traditional television broadcasting.[22]

8. We disagree with CSC's interpretation of the plain language of the statute and its legislative history. We do not believe that Congress intended for us to consider the demands of other nonbroadcast services in this proceeding. In support of its position, CSC's only citation to the legislative history is an exchange between Representatives Eckart and Dingell, in which they affirm that the Commission "should consider the scarcity of broadcasting frequencies" in making the public interest determination.[23] We reject CSC's claim that this exchange demonstrates Congress's intent that we consider the demands of other, nonbroadcast services. If anything, in

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Accordingly, we lack the discretion to exclude this factor from our analysis. See Johnson v. Robison, 415 U.S. 361, 368 (1974). Even if we were to exclude this factor, however, we would still find, based on the other factors discussed below, that such stations serve the public interest.

18 Id. at 661.

19 NAB Comments at 8.

20 Silver King Comments at 47-48; Miller Broadcasting, Inc. (Miller) Comments at 15; HSN Comments at 36.

21 CSC Reply at 20-21.

22 CSC Comments at 16-17.

23 CSC Reply at 21, citing 138 Cong. Rec. E2908 (October 2, 1992).

discussing the scarcity of broadcasting frequencies, this exchange would imply a concern with spectrum scarcity for broadcasters and whether home shopping stations were precluding other potential broadcasters from the scarce spectrum. We also agree with those commenters who assert that there is nothing unique about the spectrum now utilized by home shopping stations that justifies a reallocation inquiry. Finally, we believe that by directing the Commission to allow home shopping licensees to develop other broadcast formats if their stations were found not to serve the public interest, Congress contemplated only broadcast uses for those channels. Accordingly, we shall interpret the second criterion to refer only to competing demands of other television broadcasters. We believe that our interpretation is fully consistent with Congress's clearly expressed intent that we take into consideration the scarcity of the spectrum.

9. In the Notice we observed that, in accordance with Section 307 of the Communications Act of 1934, as amended, the licensees of home shopping stations, like those of all other television broadcast stations, must demonstrate every five years to the Commission that the public interest will be served by renewal of their licenses.[24] We also stated that home shopping stations already have the same fundamental obligation as other broadcast stations to provide programming that responds to issues of concern to their communities of license, as well as programming that serves the needs and interests of children. Moreover, we noted that any party qualified to hold a Commission license can file a competing application against the renewal of a home shopping station licensee, giving the challenger the opportunity to replace the existing licensee, should that be in the public interest. We therefore asked commenters to address whether the existing Congressionally mandated license renewal scheme adequately takes into account the competing demands of applicants for the television broadcast spectrum.[25]

10. Several commenters addressed this aspect of our inquiry in the affirmative.[26] HSN, for example, states that a competing application against a license renewal is the best indicator of any competing demand for the particular spectrum.[27] In that regard, HSN notes that such an application has been filed against the renewal of an HSN-affiliated station on only one occasion, and the station's license was renewed.[28] NAB asserts that the fact that no home shopping station has been denied renewal demonstrates either that there is little competing demand for the spectrum, or that home shopping stations have been able to demonstrate that they are serving the public

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[24] 47 C.F.R. Sec. 73.1020(a).

[25] Notice at 661.

[26] Silver King Comments at 49-50; NIMA Comments at 7-8; NAB Comments at 8-9; Direct Marketing Association (DMA) Comments at 4; Miller Comments at 15.

[27] HSN Comments at 37-38.

[28] Id. at 37, n. 50.

interest.[29] Moreover, a significant number of licensees note that the only factor that allowed them to complete the construction of their stations or to keep them from going dark was the financial assistance that affiliation agreements with HSN provided.[30] HSN and Silver King claim that the Commission can therefore conclude that there are no competing broadcast demands for those channels.[31]

11. In response, CSC argues that there may now be competing demands for those channels, even if none existed when the affiliation agreements were negotiated.[32] Further, CSC states that applicants face extraordinary hurdles that prevent them from filing competing applications against a license renewal. Specifically, according to CSC, renewal expectancy and limitations on settlements make renewal challenges costly and futile.[33]

12. Based on the evidence before us, we conclude that the existing renewal system, as well as the initial licensing process, adequately takes into account the competing demands of television broadcasters for the television broadcast spectrum. Moreover, we find the lack of competing applications against the renewal of home shopping stations to be a compelling indication that the level of competing demands for the spectrum utilized by home shopping stations is minimal.

13. Competition with Nonbroadcast Home Shopping Services. The third factor the Cable Act of 1992 requires us to consider is the role of home shopping stations in providing competition to nonbroadcast services offering

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[29] NAB Comments at 9.

[30] TV-49, Inc. (TV-49) Comments at 2-5; Jovon Broadcasting Corporation (Jovon) Comments at 2-4; Roberts Broadcasting Company (Roberts) Comments at 1; Pan Pacific Television, Inc. (Pan Pacific) Comments at 3; Ponce-Nicasio Broadcasting, Inc. (Ponce-Nicasio) Comments at 3-4. All of the above are minority-controlled licensees. Several non-minority-controlled licensees make the same assertion. Video Mall Communications, Inc. (Video Mall) Comments at 1.1-1.4; KX Acquisition LP (KX) Comments at 3-4; Miller Comments at 3-5.

[31] Silver King Comments at 48-49; HSN Comments at 36-37.

[32] CSC Reply at 21.

[33] Id. at 21-22, citing "TV License Renewals Since Oct. 1991," Broadcasting Magazine, April 12, 1993 at 62 (stating that from October, 1991, only 11 competing applications were filed against 674 renewal applications). However, we note that we instituted the settlement agreement policy which CSC cites in order to prevent abuse by non bona fide challengers, while preserving the right to file a competing application for legitimate applicants. First Report and Order in BC Docket 81-742 (Abuses of the Renewal Process), 4 FCC Rcd 4780 (1989), recon. granted in part and denied in part, 5 FCC Rcd 3902 (1990).

similar programming.[34] We stated in the Notice that two aspects of the competitive relationship appear to be implicated in addressing this statutory factor. First, we asked whether broadcast services suffer from potential commercial disadvantages as a result of their Commission-imposed public interest obligations, and whether a conclusion that broadcast home shopping stations are operating in the public interest (thus entitling them to local cable carriage) is an appropriate response to any competitive disparity that may exist.[35] The second aspect involves the question of the public interest in providing cable subscribers with competitive home shopping options.[36]

14. Few commenters chose to address the first issue. Mike Rozman and Janet Taylor (Rozman and Taylor) and Miller assert that broadcasters' public interest obligations do create a commercial disadvantage, although they provide no substantiation of that claim.[37] Miller adds that entitlement to local cable carriage would reduce the disadvantage.[38] The National Cable Television Association, Inc. (NCTA), on the other hand, states that the broadcast license system creates a commercial disadvantage for cable programmers, rather than for home shopping station licensees. According to NCTA, the costs of all broadcasters' public interest obligations is vastly outweighed by their free use of the spectrum, which allows licensees free access to the public.[39] NCTA contrasts this with the competitive environment for cable programmers, whose only access to their intended audience is through negotiated carriage agreements with cable and other video programming distributors.[40] DMA asserts that competition with nonbroadcast program providers is too narrow a criterion, because home shopping stations compete with virtually all other advertising distribution media, including magazines,

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[34] CSC asserts that Congress's concern with competition is not applicable to home shopping services. Citing Congressional findings (set forth in Sections 2(a)(9)-(11) of the 1992 Cable Act) that broadcast television provides important programming not generally available on cable channels, CSC alleges that Congress is not concerned with broadcast programming that is duplicated on cable; CSC so classifies home shopping programming. CSC Comments at 17. We disagree, because Section 4(g)(2) of the Act expressly directs the Commission to consider the role of home shopping broadcast stations in providing competition with nonbroadcast services offering similar programming.

[35] Notice at 661.

[36] Id.

[37] Rozman and Taylor Comments at 6; Miller Comments at 16.

[38] Id.

[39] NCTA Comments at 9. This sentiment is echoed by Miller, which states that the public service obligations are a small price to pay for free use of the spectrum. Miller Comments at 16.

[40] NCTA Comments at 9.

newspapers, direct mail, and telephone marketing.[41] In that regard, DMA alleges than none of these alternative media is subject to statutory public interest obligations, and that a determination against home shopping stations would alter competition in the direct marketing business to the detriment of the consumer.[42]

15. The Notice invited commenters to address specific public interest obligations that broadcasters must meet and the manner in which those requirements may create a commercial imbalance with nonbroadcast program providers.[43] We provided as possible examples the Commission rules that regulate the location of a station's main studio and that allot channels to particular, often small, communities.[44] However, the limited comments addressing this issue are conclusory and unsupported by substantiating data. Thus, they do not provide information upon which we can rely in determining whether broadcast stations do in fact suffer from potential commercial disadvantages as a result of their Commission-imposed public interest obligations.

16. The second aspect of the competitive analysis, as we stated in the Notice, involves the question of the public interest in providing competitive home shopping options to television viewers.[45] The Notice observed that competition could be affected by a cable operator's having either an ownership or a contractual interest in a nonbroadcast provider of home shopping programming.[46] We therefore sought comment on whether cable operators with either ownership or contractual interests in nonbroadcast providers of home shopping programming have elected not to carry home shopping broadcast stations or have treated such stations less favorably than nonbroadcast home shopping services with which they are affiliated. We also

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[41] DMA Comments at 5.

[42] Id.

[43] Notice at 661.

[44] Id. at n. 13.

[45] Id. at 661.

[46] The Notice stated that a contractual interest is created when a nonbroadcast home shopping programmer has its presentation carried by a local cable company and pays the cable operator a percentage of those sales that originate from certain addresses or zip codes. Under such an agreement, the cable operator has a direct financial stake in the success of the nonbroadcast home shopping programmer, and vertical integration is created by contract. Id.

requested comment on whether any such carriage decisions have resulted in stifling competition and reducing the viewing choices of the public.[47]

17. With regard to the matters raised, several commenters allege that cable systems frequently and unfairly discriminate against home shopping broadcast stations,[48] while others claim that no such discrimination occurs. For example, NCTA asserts that cable systems may choose not to carry broadcast home shopping stations because their programming generally duplicates that of a channel already available on cable, making the broadcast station's programming significantly less desirable.[49] NCTA adds that, to the extent that cable systems may favor nonbroadcast home shopping providers in which they have an interest, the proper solution is enforcement of antitrust laws, rather than mandatory carriage.[50] Continental Cablevision, Inc. (Continental) contends that many cable operators with an ownership interest in nonbroadcast home shopping programmers also carry home shopping programming provided by entities in which they have no interest.[51] Continental adds that, although it has an ownership interest in QVC Network, Inc. (QVC), a home shopping cable program provider, its carriage of QVC and HSN is similar.[52] Continental also alleges that cable operators receive commissions from sales in their franchise area not only from cable programming provided by HSN, but also from broadcast sales by HSN.[53] Finally, Continental contends that it provided substantial distribution to the former J.C. Penny Home Shopping Service, in which it had no ownership interest.[54]

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[47] We also asked commenters whether we should distinguish between ownership and contractual relationships in our analysis. Id. Miller is the only commenter to address this question, asserting that we should not make such a distinction. Miller Comments at 17-18. We see no compelling or apparent reason to make such a distinction, and we will not do so in our consideration of this issue.

[48] Rozman and Taylor Comments at 5-6; Miracle Rock Church (Miracle Rock) Comments at 5-6; Association of Independent Television Stations, Inc. (INTV) Comments at 8. In addition, several commenters assert that they have had difficulty obtaining carriage, but make no factual assertion that this is directly attributable to their home shopping format. Pan Pacific Comments at 16; Adell Broadcasting Corporation (Adell) Comments at 4; KX Comments at 5-6; Ponce-Nicasio Comments at 1, 10; and Miller Comments at 2.

[49] NCTA Comments at 9.

[50] Id. at 11.

[51] Continental Comments at 3.

[52] Id.

[53] Id., n. 3.

[54] Id. at 3.

18. We initially note one of the findings upon which Congress expressly based the 1992 Cable Act: that vertically integrated cable systems have an incentive and ability to favor their affiliated programmers.[55] However, based on the comments submitted in this proceeding, we cannot determine whether cable operators with either ownership or contractual interests in nonbroadcast providers of home shopping programming have discriminated against home shopping broadcast stations. None of the commenters addressing this issue has submitted any specific information to support its conclusions. On the other hand, with regard to Continental's assertion that its carriage of QVC and HSN is similar, it does not distinguish between HSN's cable and broadcast programming, failing to state whether and under what conditions it carries HSN's broadcast programming. Moreover, Continental reports that it has "a potential ownership interest" in HSN through stock options,[56] making its carriage of HSN programming irrelevant to the question of whether cable systems discriminate against home shopping broadcast programming in which they have no ownership or contractual interest. We believe that these factors diminish the value of Continental's assertions in helping us determine how cable operators interact with broadcast home shopping stations in which they have no ownership or contractual interest. Accordingly, keeping in mind the basic Congressional finding, we will look elsewhere in order to analyze the role of home shopping stations in providing competition to nonbroadcast services offering similar programming.

19. In this regard, HSN and Silver King claim that home shopping broadcast stations provide the principal competition to cable home shopping providers.[57] They allege that denial of carriage to broadcast home shopping stations would limit viewers to services offered only on cable.[58] However, CSC asserts that any benefit from competition between cable and broadcast home

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[55] Section 2(a)(5) of the 1992 Cable Act. Congress has also expressed its concern with other discriminatory practices by cable operators, and the Commission has established rules and enforcement procedures to address these concerns. For example, Section 19 of the 1992 Cable Act prohibits unfair or discriminatory practices by vertically integrated programming vendors in selling satellite cable and satellite broadcast programming to certain multichannel video programming distributors. See First Report and Order in MM Docket No. 92-265 (Program Access), 8 FCC Rcd 3359 (1993). In addition, Section 12 of the 1992 Cable Act prohibits cable systems or other multichannel video distributors from pursuing coercive and discriminatory carriage agreements with programming vendors. See Notice of Proposed Rulemaking in MM Docket No. 92-265, 8 FCC Rcd 194 (1992).

[56] Continental Comments at 3, n. 3.

[57] Silver King Comments at 52; HSN Comments at 40-41.

[58] They further state that denial of carriage would also deny cable subscribers access to the local public service programming of broadcast home shopping stations. Id.

shopping services is undermined by growing common ownership of QVC and HSN.[59] NCTA claims that mandatory carriage would destroy competition in home shopping programming, because only broadcast stations would be ensured carriage on the basic tier, while their competitors would have to vie for carriage in the marketplace of a proportionately diminished number of available cable channels.[60]

20. Continental, asserting that HSN's cable and broadcast programming have essentially the same products and format, contends that competition has not produced materially different programming services. Therefore, according to Continental, requiring carriage of both a nonbroadcast and a broadcast home shopping channel could diminish the much greater program diversity that it claims exists between other services.[61] In addition, Continental suggests that a cable operator that carries HSN's cable channel should not be required to carry an HSN-affiliated broadcast station that is largely duplicative of the cable version.[62] Moreover, Continental claims that must-carry of home shopping broadcast stations would result in HSN's having an unfair market advantage over QVC and any new market players, because it would enjoy carriage of both its broadcast (through must-carry) and its cable (through negotiated agreements) programming services.[63] At the same time, Continental also contends that granting must-carry status to home shopping stations would encourage new entrants into the market, by forcing home shopping programmers either to purchase or affiliate with broadcast stations in order to have guaranteed access to a cable channel; Continental claims that the Commission would be replacing the marketplace in determining the level of home shopping programming.[64]

21. Valuevision further addresses the effect of our public interest determination on new market entrants. Claiming that the television home shopping industry is highly concentrated and vertically integrated, Valuevision asserts that must-carry is essential to the ability of new home shopping program providers to obtain and maintain access to cable subscribers,

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[59] CSC Comments at 17-18. In this regard, Valuevision International, Inc. (Valuevision) provides detailed information concerning the extent of common ownership of QVC and HSN. Valuevision Reply at 9-10.

[60] NCTA Comments at 9-10.

[61] Continental Comments at 4. Continental specifically cites such cable channels as Court TV, the Discovery Channel, Black Entertainment Television, and the Learning Channel.

[62] Id. at 5, n. 4.

[63] Id. at 4-5.

[64] Id.

who compose the majority of television viewers.[65] Valuevision adds that without carriage, many such small program providers have failed.[66]

22. We reject the claims of some commenters that grant of must-carry status would create an unfair competitive advantage for broadcast home shopping stations in general, and for HSN in particular. Proponents of that view seem mistakenly to assume that HSN, for example, could enjoy two channels on a cable system, one broadcast and the other nonbroadcast. However, cable operators are not required to carry specific cable home shopping program providers (such as HSN, QVC, or any combination of these cable services). Further, Continental's suggestion that a cable system already carrying HSN's cable programming not be required to carry a home shopping broadcast station ignores the fundamental purpose of Congress's must-carry scheme: preservation of local television service and the local public interest programming provided by these broadcast stations.[67] Moreover, the must-carry system reflects a balance between that purpose and the contractual carriage agreements between cable operators and programmers.[68] Finally, we note that Congress expressly based the 1992 Cable Act on a finding that vertically integrated cable systems have an incentive and ability to favor their affiliated programmers.[69] We find no evidence in the record that Congress's general finding is not applicable to the specific environment of home shopping programming. Moreover, we seek under this criterion to enhance the menu of competitive choices available to viewers who desire the advantages of home shopping. In this regard, we believe the public would not be served by diminishing the competition to cable home shopping services. Accordingly, we conclude that the existence and carriage of home shopping broadcast stations play a role in providing competition for nonbroadcast services supplying similar programming.

23. In summary, we find that each of the three factors which Congress directed us to consider in our analysis leads us to conclude that home shopping stations are serving the public interest. We shall now turn to other matters that may also affect our determination.

Other Public Interest Factors

24. The Notice requested comment on other matters, besides the three factors specifically enumerated by Congress, that we could examine in deciding whether home shopping stations serve the public interest. We invited commenters to address in particular whether the assumptions underlying the

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[65] Valuevision Reply at 7-11.

[66] Id. at 7. Valuevision cites Tel-Shop, The Fashion Channel, The Value Club of America, and America's Shopping Channel.

[67] Sections 2(a)(9)-(11) of the 1992 Cable Act.

[68] Broadcast Signal Carriage Issues at 2988.

[69] See ¶ 18, above.

deregulation of the commercial guidelines are still valid,[70] and whether home shopping stations provide a needed or valuable service for people who either lack the time or the ability to obtain goods outside the home or who otherwise benefit from the type of marketing process involved.[71] Commenters were also invited to submit information regarding how home shopping broadcast stations have been meeting their public interest obligations.[72]

25. Assumptions of Deregulation. In eliminating restrictions on the amount of commercial programming a station could broadcast, the Commission assumed that viewer preferences and market forces would govern commercial loads and that stations would not survive economically if viewers were dissatisfied with the level of commercialization.[73] The Commission also expressed its preference for direct viewer control over content through the reflection of their preferences in the market rather than governmental regulation of programming content.[74] Several commenters addressed whether these assumptions are still valid in today's video marketplace.[75]

26. CSC, for example, notes that the Commission premised the deregulation of commercial time on the assumption that market forces would protect the public from excessive commercialization.[76] However, according to CSC, use of a home shopping format allows licensees to "evade" market forces, thereby demonstrating that the market has failed.[77] CSC also argues that the 1992 Cable Act and its legislative history demonstrate Congress's belief that the market has failed to control commercial levels, thereby prompting this

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[70] We emphasize that this discussion is limited to the assumptions behind the deregulation of the commercial time requirements and has no bearing on any other action taken in the Television Deregulation proceeding.

[71] Notice at 661.

[72] Id.

[73] Television Deregulation at 1101-05.

[74] Id.

[75] HSN and Silver King assert that home shopping is the type of format that the Commission had in mind in 1984 when it deregulated commercial time. HSN Comments at 27; Silver King Comments at 13 (citing Television Deregulation at 1087-88, 1103). CSC cites prior Commission policies toward commercialization before 1984. CSC Comments at 5-8. However, Congress has directed us to make our public interest determination notwithstanding prior proceedings. Therefore, we cannot rely on the conclusions that the Commission reached either before or in Television Deregulation. Nevertheless, we can seek to determine whether the assumptions upon which the Commission based the deregulation of commercial time are still valid.

[76] CSC Comments at 8, citing Television Deregulation at 1105.

[77] CSC Comments at 9.

proceeding.[78] Further, CSC claims that Congress's recent institution of commercial limits during children's programming[79] demonstrates the failure of market forces to prevent excessive commercialization during such programming.[80] NAB, on the other hand, cites the commercial success of HSN and argues that market forces have succeeded in reflecting viewer preferences, as the Commission predicted in Television Deregulation.[81] NIMA asserts that new forms of video advertising, including program length commercials, are made possible only by consumer interest, and that they are a product of the commercial flexibility that the Commission believed would develop in response to the deregulation of commercial time.[82]

27. There is no evidence that the marketplace has failed to serve television viewers with its evolution to the present number and variety of home shopping services. CSC's claim that the use of a home shopping format allows broadcasters to "evade" market forces is not supported by any data. Indeed, the record clearly demonstrates that market forces have revealed a desire among a significant number of television viewers for home shopping programming. We find no reason to believe that home shopping stations would survive in an increasingly competitive video marketplace if viewers were dissatisfied with their level of commercialization. We also disagree with CSC's interpretation of the 1992 Cable Act and its legislative history. We note that the passages cited by CSC expressly state that the Commission would undertake a de novo review of the overall regulatory treatment of home shopping stations, which includes commercial time limits. They do not express a finding that the marketplace had failed to control the level of commercialization. Had Congress found that the market had failed, we believe that it would specifically have so stated.

28. Services Provided by Home Shopping Stations. We also asked in the Notice whether home shopping stations provide a needed or valuable service for people who either lack the time or the ability to obtain goods outside the home or who otherwise benefit from the type of marketing process involved.[83] No commenter disputes that home shopping stations meet such specialized needs.

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[78] Id. at 9-10; CSC Reply at 8-9, citing 138 Cong. Rec. E2908 (Statement of Rep. Eckart, asserting that the 1992 Cable Act requires the Commission "to conduct a de novo review of the overall regulatory treatment of [home shopping stations], notwithstanding prior proceedings the FCC has conducted which may have permitted or had the effect of encouraging such stations' practices").

[79] See The Children's Television Act of 1990, 47 U.S.C. Sections 303(a), 303(b), and 394.

[80] CSC Comments at 9.

[81] NAB Comments at 7, citing Television Deregulation at 1104.

[82] NIMA Comments at 5-7, citing Television Deregulation at 1105.

[83] Notice at 661.

Several commenters[84] state that they provide valuable services to the disabled and others confined to their homes, the elderly, families without time to shop by other means, people without ready access to retail outlets or whose outlets do not stock the goods they want, people without cars or other transportation, people who dislike shopping, and people who are afraid of violent crime in conventional shopping areas. Accordingly, based on the record before us, we find that home shopping stations provide an important service to viewers who either have difficulty obtaining or do not otherwise wish to purchase goods in a more traditional manner.

29. Public Interest Obligations. Commenters were also invited to demonstrate how home shopping stations have satisfied their obligation to address the needs and interests of their communities of license. In response, we have received detailed listings of the public interest programming of many licensees of home shopping stations.[85] According to these submissions, licensees of home shopping stations have addressed such issues as drug and alcohol abuse, AIDS, race relations, homelessness, basic legal knowledge for non-English-speaking viewers, and local political debates and election returns. These commenters assert that home shopping stations utilize a variety of formats for this type of programming, including public service announcements (PSAs) and program length features.[86] Silver King states that its principal public interest program is In Your Interest (IYI), a 4.5 minute locally produced program that generally airs once each hour.[87] According to Silver King, it covers some issues in single parts and others in multiple segments. Silver King also asserts that IYI's format consists of interviews with community leaders and experts, discussions, demonstrations, and person-on-the-street interviews designed to elicit local opinions. Silver King further asserts that the Commission has recognized IYI as a bona fide news interview program that qualifies for an exemption under Section 315(a) of the Communications Act of 1934.[88] Finally, according to Silver King, each of its stations airs four hours each Sunday of non-IYI nonentertainment programming, which has included Persian War updates, live local election coverage, weekly

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[84] HSN Comments at 33-34; Long Family Partnership (Long) Comments at 5-6; Adell Comments at 3; Miracle Rock Comments at 4 (Miracle Rock is the proposed assignee of a station already affiliated with HSN); DMA Comments at 6; Silver King Comments at 45; and Ponce-Nicasio Comments at 12.

[85] Among the commenters submitting such information were TV-49, Video Mall, Jovon, Channel 63, Inc. (Channel 63), Roberts, Reading Broadcasting, Inc. (Reading), Pan Pacific, Long, Silver King, KX, Miller, Blackstar Communications of Florida, Inc. (Blackstar Florida), Blackstar Communications of Michigan, Inc. (Blackstar Michigan), and Blackstar Communications of Oregon, Inc. (Blackstar Oregon).

[86] See, e.g., Silver King Comments at 25-32.

[87] Id. at 25-28.

[88] Silver King Broadcasting Company, 3 FCC Rcd 2819 (1988).

reports from a local Member of Congress, and programs on Persian and Islamic culture.[89]

30. In addition, Silver King contends that its stations meet or exceed the former levels of public interest programming that required full Commission review of renewal under previous Commission policies. Specifically, in determining whether the public interest would be served by renewing the license of a commercial television station, the Commission reserved to itself the review of each station's program performance where, during a composite week, less than 5% of the station's broadcast time had been devoted to local programming, 5% to news and public affairs, and 10% to total nonentertainment programming. Silver King states that its stations average 7.6% local programming, 7.6% news and public affairs programming, and 10.2% total nonentertainment programming weekly. Finally, several commenters submit evidence that their stations' proportion of local and public interest programming meets or exceeds that of most independent UHF television stations in their respective markets.[90]

31. Based upon the record before us, it appears that the chosen format of home shopping stations generally does not preclude them from adequately addressing the needs and interests of their communities of license. We observe that we have never denied the license renewal application of any home shopping station, thus indicating that these stations have been able to meet the Commission's standards on public affairs programming responsive to issues confronting the local community, as well as standards on indecency and political or emergency broadcasting. Indeed, with regard to serving the needs and interests of children, as with all public interest considerations, home shopping stations must comply with the same rules that apply to other television broadcast stations.[91] Accordingly, having reviewed the variety of ways in which home shopping stations meet their public interest obligations, we now turn to an issue not expressly mentioned in our Notice, but raised by several commenters.

32. Effect on Minority Ownership of Television Stations. Several commenters assert that a determination that home shopping stations are not serving the public interest would have a devastating effect on the minority ownership of television broadcast stations.[92] NABOB asserts that only 20 commercial television stations, seven of which carry a significant amount of

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[89] Id. at 28-30.

[90] Channel 63 Comments, Exhibit E; Silver King Comments at 24, Exhibit 4; Jovon Comments, Section II.

[91] See Memorandum Opinion and Order in MM Docket Nos. 90-570 and 83-670, 6 FCC Rcd 5093, 5096 (1991), recon. denied, 7 FCC Rcd 3197 (1992) (Policies and Rules Concerning Children's Programming).

[92] See, e.g., NAB Comments at 9.

home shopping programming, are owned by African Americans.[93] According to Silver King, HSN is also affiliated with two of the seven Asian-owned stations and one of the seven Hispanic-owned stations.[94] Silver King and HSN state that the latter is affiliated with 30% of all the nation's minority-owned television stations.[95] Since 1986, according to HSN, it has funded the acquisition or construction of seven minority-owned stations and has furthered the development of others through affiliation agreements that have been the owners' only source of financing.[96]

33. According to CSC, because home shopping stations often devote 90% or more of their broadcast day to sales presentations provided by an often distant, non-minority-owned programmer, the licensees have little actual opportunity to influence the stations' programming.[97] The Commission's minority ownership policies are intended to enhance the diversity of views and information available to the public, CSC argues, and this goal is not achieved by home shopping stations.[98]

34. In this regard, however, we note Jovon's assertion that 49% of its broadcast day is nonentertainment programming and Pan Pacific's assertion that it devotes only 25% of its prime-time programming to home shopping.[99] In addition, Miracle Rock asserts that the station that it seeks to purchase airs non-HSN programming for more than 50% of its broadcast day.[100] Moreover, even if a minority-controlled station devotes 90% of its broadcast day to HSN's

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[93] NABOB Comments at 1.

[94] Silver King Comments at 38, n. 54, citing National Telecommunications and Information Administration, "A Statistical Analysis of Minority-Owned Commercial Broadcast Stations Licensed in the United States in 1992" (November 20, 1992).

[95] Silver King Comments at 38; HSN Comments at 16.

[96] HSN Comments at 17-20. See also ¶ 10. Among the minority-owned licensees are Jovon, Roberts, Ponce-Nicasio, Pan Pacific, Blackstar Florida, Blackstar Michigan, Blackstar Oregon, and TV-49.

[97] CSC Reply at 10-13. CSC contends that HSN's affiliation agreements improperly delegate programming authority and de facto control of the stations to HSN. CSC therefore urges the Commission to nullify all contractual provisions which condition financing of the station on strict adherence to HSN's program schedule. We believe that such an action is not appropriate for this proceeding. If CSC believes that HSN is in de facto control of one or several stations in violation of the Commission's rules, it is free to demonstrate such control in a more appropriate, adjudicative proceeding.

[98] CSC Reply at 10-13.

[99] Jovon Comments at 5; Pan Pacific Comments at ii.

[100] Miracle Rock Comments at 2.

programming, as claimed by CSC, the licensee still retains both the opportunity and the responsibility to control the station's programming generally, and its public interest programming specifically. We thus conclude that minority-controlled licensees of home shopping stations enhance the diversity of views and information available to the public.

35. As we have found earlier, it appears that home shopping stations, including those that are minority-owned, have generally been meeting their programming obligations. Moreover, several minority-controlled and other small and marginal station licensees have stated that their stations currently operate only because of their affiliation with HSN.[101] We also note the express assertions of several minority-owned licensees that the income from their affiliation with HSN allows them to finance public interest programming that they otherwise would not be able to provide.[102] For example, Pan Pacific states that it broadcasts Chinese language news and other public interest programming approximately 1.5 hours each night during prime time.[103] Given the number of minority-owned television stations that are affiliated with HSN, we find that requiring home shopping stations to substantially modify their format would have a destabilizing impact on the minority ownership of television stations. Likewise, we believe the record demonstrates that the home shopping affiliation is important to the efforts of a number of small and marginal stations to continue to operate and serve the public interest.[104]

36. Accordingly, based on a wide variety of factors, we conclude that home shopping stations are serving the public interest, convenience, and necessity. We thus find no need to require such stations to modify their program formats in order to retain or obtain renewal of their licenses. We also reject CSC's suggestion that such stations, due to the level of their commercial programming, should receive no renewal expectancy. Section 4(g)(2) of the 1992 Cable Act directs the Commission not to use home shopping stations' format as a basis to deny them a renewal expectancy, even if their commercial programming is found not to serve the public interest. Moreover, independent of whether we have the authority to deny a renewal expectancy to home shopping stations, the record reflects no detriment to the public caused by their existing program operations.

PROCESS FOLLOWING PUBLIC INTEREST DECISION

Mandatory Carriage of Home Shopping Stations

37. Given our conclusion that home shopping stations are operating in the public interest, Section 4(g)(2) of the 1992 Cable Act seems to suggest

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101 See n. 30, above.

102 Blackstar Florida Comments at 1; Blackstar Oregon Comments at 1; Pan Pacific Comments at 3.

103 Pan Pacific Comments at 10.

104 See n. 30, above.

that such stations are automatically eligible for mandatory cable carriage. However, the Notice stated that another option might be to find that home shopping stations, although operating in the public interest in such a manner as to warrant continued authorization and renewal, do not warrant mandatory cable carriage.[105] Noting that the language of the Act appears to preclude such a conclusion, we asked commenters to address whether the 1992 Cable Act permits the latter approach and, if so, what criteria we might use to distinguish those home shopping stations entitled to carriage.[106]

38. Several commenters assert that the Act does not allow the Commission to authorize the continued operation of home shopping stations without making them eligible for mandatory carriage.[107] Smolla claims that the must-carry rules have been upheld only because they are content-neutral, and that the must-carry system would be jeopardized by not granting eligibility to home shopping stations.[108] Opposing mandatory carriage in general, Time Warner Entertainment Company, L. P. (Time Warner) asserts that broadcast and nonbroadcast home shopping programming are similar, and that cable operators should have the discretion to determine which would best meet the needs of its subscribers.[109] Time Warner and NCTA argue that home shopping stations do not carry the quality public interest programming that Congress crafted the must-carry rules to protect.[110] Thus, according to NCTA, mandatory carriage of home shopping stations would displace cable channel space that could otherwise carry more substantive news programming, such as CNN or C-Span.[111]

39. We are not persuaded that the 1992 Cable Act would allow the continued authorization of home shopping stations without granting them eligibility for mandatory carriage. The plain language of Section 4(g)(2) provides that the Commission "shall" qualify such stations for mandatory carriage upon a finding that they are serving the public interest. We have made such a finding. Commenters opposing this interpretation have failed to provide a reasonable means to read the statute otherwise. Moreover, we agree

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105 Notice at 662.

106 Id.

107 NAB Comments at 10-11; INTV Comments at 8; Silver King Comments at 54; Rodney A. Smolla (Smolla) Reply at 1-3.

108 Smolla Reply at 1-3.

109 Time Warner Comments at 5. In addition, as discussed in ¶ 20, above, Continental opposes the granting of must-carry status to home shopping stations. In opposing mandatory carriage, NCTA makes some of the same arguments. For the reasons set forth in ¶ 22, above, we reject those arguments.

110 NCTA Comments at 3-8; Time Warner Comments at 4, 7-8.

111 NCTA Comments at 3-8.

with Smolla that the failure to qualify certain licensed stations based upon their programming decisions would place the content-neutrality of the must-carry rules into serious doubt, thereby jeopardizing their constitutionality.[112] We conclude that as long as a home shopping broadcast station remains authorized to hold a Commission license, it should be qualified for mandatory carriage.[113]

Coordination with the Must-Carry Rules

40. We address now how to coordinate the activation of home shopping stations' must-carry rights with the rules adopted in the general mandatory carriage and retransmission consent proceeding.[114] Cable systems were required to begin carrying their full complement of must-carry broadcast stations by June 2, 1993,[115] and broadcast stations were required to make their initial must-carry/retransmission consent elections by June 17, 1993.[116] Silver King states that home shopping stations will be excluded from the pool of local broadcast stations for the purpose of mandatory carriage for at least six months, because: (1) the note to Section 76.58(a) of the Commission's rules prohibits cable systems from deleting or repositioning local commercial television stations during a major ratings ascertainment period (such as will occur in July, 1993); (2) Section 76.58(a) of the Commission's rules directs cable system operators to provide 30 days' notice to a broadcast station before deleting or repositioning that station; and (3) retransmission consent agreements should be completed by mid-August, which will further finalize channel carriage and positioning.[117] Accordingly, Silver King requests a blanket waiver of the 30-day notice requirement, thereby permitting cable systems to add home shopping stations that elect must-carry status immediately upon receipt of their must-carry elections.[118]

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[112] In upholding the constitutionality of the 1992 Cable Act's must-carry provisions, a three-judge panel from the U.S. District Court for the District of Columbia found that they were content-neutral and thereby subject to a less rigorous First Amendment standard of review. However, the court noted that the restriction of a particular type or character of speech might subject a regulation to strict scrutiny. Turner Broadcasting System, Inc. v. F.C.C., Consolidated Nos. 92-2247, 2292, 2294, 2495, 2558, Memorandum Order (D.D.C., April 8, 1993) slip op. at 18.

[113] See Section 2(a)(11) of the 1992 Cable Act.

[114] Broadcast Signal Carriage Issues.

[115] Id. at 2972-73.

[116] Id. at 3002.

[117] Silver King Reply at 5-6.

[118] For the same reasons, Silver King also requested that the Commission adopt a Report and Order in this proceeding before June 2, 1992. That request is now moot. However, we note that in assigning different schedules in the

41. We deny the waiver request. A party seeking waiver of the Commission's rules bears the substantial burden of demonstrating that the public interest will be served by grant of the waiver request.[119] In the case before us, Silver King has failed to demonstrate that it would be unfairly harmed by application of the notice requirement. Specifically, Silver King has not shown that a significant number of cable systems carry enough broadcast stations on a must-carry basis to allow them to reject carriage of home shopping stations. It also has the burden of demonstrating that the public interest reasons supporting the notice requirement will not be harmed by grant of the waiver request. Silver King has made no such showing.

42. We must now establish the schedule for implementing the carriage of home shopping stations, an issue not otherwise addressed in detail by the commenters. Pending our determination in this proceeding, cable systems were not required to carry home shopping stations, as defined by our interim rule.[120] We have concluded here, however, that home shopping stations are to be treated similarly to other stations for purposes of cable carriage. Thus, these stations are, in terms of cable carriage rights, effectively equivalent to newly operating television stations. Accordingly, we shall commence the process of implementing these stations mandatory carriage, channel position, and retransmission consent rights on the same general schedule established in Section 76.64(f)(4) for new stations making their initial election. Home shopping stations must make their initial must-carry/retransmission consent elections by 30 days after publication of this Report and Order in the Federal Register.[121] Those stations that elect mandatory carriage must also notify cable operators of their preferred channel positions by the same date. The initial channel position and mandatory carriage obligations for stations not currently carried and that do select mandatory carriage by 30 days after publication of this Report and Order in the Federal Register will take effect on October 6, 1993, in order that these carriage obligations may be coordinated with the other obligations that take effect on that date. Stations eligible for mandatory carriage that are already being carried will become subject to the mandatory carriage requirement (subject to the channel capacity and other limits set forth in the rules) upon publication of this Report and Order in the Federal Register.

1992 Cable Act to the home shopping and general must-carry proceedings, Congress contemplated that this proceeding might not be completed at the time desired by Silver King.

119 WAIT Radio v. F.C.C., 418 F.2d 1153 (D.C. Cir. 1969).

120 47 C.F.R. Sec. 76.56(b)(6).

121 This applies only to those stations tentatively defined as home shopping stations in Broadcast Signal Carriage Issues at 3003. Stations not meeting that definition were required to make their initial elections on June 17, 1993.

CONCLUSION

43. Based on the information submitted in this proceeding, we find that broadcast stations that are predominantly utilized for the transmission of sales presentations or program length commercials serve the public interest. Further, we qualify such stations as local commercial television stations for the purposes of cable carriage upon adoption of this Report and Order.[122]

ADMINISTRATIVE MATTERS

A. Regulatory Flexibility Analysis

44. The Commission's final regulatory flexibility analysis for this Report and Order is set forth in Appendix B.

B. Ordering Clauses

45. Accordingly, IT IS ORDERED that the request of Silver King Communications, Inc. for waiver of Section 76.58(a) of the Commission's Rules IS DENIED.

46. IT IS FURTHER ORDERED that, pursuant to the authority contained in Sections 4 and 303 of the Communications act of 1934, as amended, §§ 154 and 303, and Section 4(g) of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, Part 76 of the Commission's Rules, 47 C.F.R. Part 76, IS AMENDED as set forth in Appendix C, effective 30 days after publication of this Report and Order in the Federal Register.

47. IT IS FURTHER ORDERED that, pursuant to the need to avoid disruption to cable subscribers and broadcast television stations during the transition to the new broadcast signal carriage rules and the authority contained in the Administrative Procedure Act, 5 U.S.C. §553(d)(3), home shopping stations that are eligible for mandatory carriage and that are already being carried will become subject to the mandatory carriage requirement upon publication of this Report and Order in the Federal Register.

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[122] A substantial portion of the comments submitted in this proceeding discuss whether the Commission has the constitutional authority to restrict the operation or carriage of home shopping broadcast stations, pursuant to the lesser First Amendment protection afforded to commercial speech. Because we are enacting no such restriction, we need not address this issue. Nevertheless, we note the Supreme Court's recent admonition that government regulations not "place too much importance on the distinction between commercial and noncommercial speech." City of Cincinnati v. Discovery Network, Inc., No. 91-1200, slip op. at 14 (U.S. March 24, 1993). We also believe that denying mandatory carriage to home shopping stations would bear no relationship to the goals of the must-carry rules, i.e., the preservation of local television service and the local public interest programming provided by broadcast stations, thereby casting serious doubt on the constitutionality of such an action.

48. IT IS FURTHER ORDERED that MM Docket No. 93-8 IS TERMINATED.

C. Additional Information

49. For additional information on this proceeding, contact Paul R. Gordon, Mass Media Bureau, (202) 632-6357.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton

William F. Caton
Acting Secretary

APPENDIX A

FORMAL COMMENTS

Adell Broadcasting Corporation
Association of Independent Television Stations, Inc.
Blackstar Communications of Florida, Inc.
Blackstar Communications of Michigan, Inc.
Blackstar Communications of Oregon, Inc.
Center for the Study of Commercialism
Channel 63, Inc.
Continental Cablevision, Inc.
Direct Marketing Association
Home Shopping Network, Inc.
Jovon Broadcasting Company
KX Acquisition LP
The Long Family Partnership
Miller Broadcasting, Inc.
Miracle Rock Church
National Association of Black Owned Broadcasters, Inc.
National Association of Broadcasters
National Cable Television Association
National Infomercial Marketing Association
Pan Pacific Television, Inc.
Ponce - Nicasio Broadcasting, Inc.
Reading Broadcasting, Inc.
Roberts Broadcasting Company
Mike Rozman and Janet Taylor
Silver King Communications, Inc.
Rodney A. Smolla
Time Warner Entertainment Company, L.P.
Video Mall Communications, Inc.

INFORMAL COMMENTS

Hon. Robert E. Andrews, United States House of Representatives
Martha M. Belluschi
Michael J. Caracciolo
James J. Close
Barry Lee Cobbs
Jim Congleton
Cumberland County College
Vivian I. Davis
Brad Foltyn
William A. Gurley
Dorene V. Holloman
Maria J. Kayes
Hon. John F. Kerry, United States Senate
Hon. William Lipinski, United States House of Representatives
Christina M. Long