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

In the Matter of	)	
	)	
Implementation of Section 17	)	
of the Cable Television	)	ET Docket No. 93-7
Consumer Protection and	)	
Competition Act of 1992	)	
	)	
Compatibility Between Cable	)	
Systems and Consumer Electronics	)	
Equipment	)	

REPLY COMMENTS OF AMERITECH

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Dated: February 16, 1994

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REPLY COMMENTS OF AMERITECH

I. Introduction

Ameritech respectfully files these Reply Comments regarding the Notice of Proposed Rule Making ("NPRM")[1] adopted by the Commission in this matter. The NPRM embraced the important objectives of the 1992 Cable Act, recognizing that the original basis for Section 17 of the Act was to insure that "subscribers will be able to enjoy the full benefits of both the programming available on cable systems and the functions available on their television receivers and video cassette recorders."[2]

Unfortunately, the record to date indicates that some parties have failed to keep this original focus on the needs of customers. The impetus for this proceeding was, and should remain, to enhance the ability of customers to subscribe to the services and vendors they prefer, while making full use of the equipment features and functions they choose. To the extent that the

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[1] Notice of Proposed Rule Making, ET Docket No. 93-7, released December 1, 1993 ("NPRM").

[2] NPRM, at 1, citing to Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460, (1992) ("Cable Act"), § 17.

Comments direct debate away from this interest, they should be viewed with skepticism. To do otherwise would be to miss the main point of this section of the Cable Act.

In this regard, the Commission should continue to resist being drawn into disputes among potential competitors in today's integrated video marketplace. The record to date contains Comments which seek some form of protection for various competitors, including traditional cable operators[3], single-tier service providers[4], TV and VCR manufacturers[5], and "small" providers[6].

While it is true that the Cable Act's directives include a cost-benefit calculus[7], the Commission has not been positioned as the policeman for disputes among potential competitors in the emerging marketplace. The instant proceeding is simply not the forum for these concerns. The compatibility problems which moved Congress to act in this matter are not based on market structures, competitive postures, or the like. Consumers do not, and need not, care about the relative market positions of their potential

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[3] See, e.g., Comments of Continental Cablevision, Inc., at 3, complaining of the "sharp discrepancy between the proposed compatibility requirements for cable operators and the absence of any such requirements for competitors ...".

[4] One such provider seeks an exemption from the NPRM's proposed prohibition of basic-tier scrambling "for Barden and other similarly situated operators." Comments of Barden Cablevision, at 4.

[5] A manufacturer warns that "[u]nless the Commission goes further now, program distributors will retain powerful incentives and means to keep features, and hardware, proprietary, nonstandard, and noncompatible." Comments of Mitsubishi, at 7.

[6] It has been argued that the burden of compliance with the proposed rules "will fall most heavily on those who can least afford it -- operators of smaller cable systems." Comments of Cable Telecommunications Association, Inc., at 3.

[7] See NPRM, at 4, for a listing of this language in the Cable Act.

video service providers. They want their chosen features to work with their preferred programming sources. The rest simply doesn't matter to them.

What does matter is whether the rules ultimately adopted are broad enough to accommodate the wide range of existing and future delivery systems, and flexible enough to treat each system appropriately.

II. The Rules Should Accommodate Multiple Delivery Platforms

As customers choose from an increasingly-complex set of video sources, compatibility issues are likely to continue to arise unless this proceeding produces a comprehensive set of guidelines which take account of the differences among delivery platforms. The list of platforms already includes traditional cable systems, over-the-air broadcasting, direct broadcast satellite ("DBS"), "wireless cable", satellite master antenna TV ("SMATV"), television receive-only ("TVRO"), multipoint multichannel distribution services ("MMDS"), and others. The emergence of Local Multipoint Distribution Systems ("LMDS"), video dialtone services, and other switched digital systems not yet foreseen need not trigger additional proceedings if the Commission maintains its customer focus in this Docket by recognizing and dealing flexibly with the broadest possible range of platforms.

To encompass a full range of different platforms, the rules adopted in this proceeding must acknowledge the variations among the underlying distribution technologies. As one party has aptly noted, different technologies deployed in various configurations "will not harm consumers. Instead, they may provide a basis for competition among distribution technologies and provide consumers with more choices."[8] If the implications of multiple platforms are acknowledged and treated in this proceeding, the resulting rules

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[8] Comments of Home Box Office, at 3 (discussing digital transmission technologies).

will permit the flexibility necessary for the full and rapid evolution of consumer video services.

One illustration of how a particular technology may affect the Commission's evaluation of potential rules is the so-called "one-to-many" relationship inherent in video dialtone offerings. An "open platform" design, in which one system is intended to distribute the services of multiple video information providers ("VIPs"),[9] can affect several aspects of the proposed rules. For example, VIPs whose services are offered to customers via such a network will have similar security and theft-of-service concerns to those whose services are delivered via other systems. Thus, each may choose to employ decoders or other means of protection for its services. Moreover, since competing VIPs may use the same facilities, each will likely use some means to ensure that only its paying subscribers have access to its services. The practicability of the NPRM's proposed "basic tier in the clear" requirement[10] as applied to developing video dialtone services must be assessed in this light.

A second illustration can be found in the proposal that operators must furnish component descrambler/decoders and related equipment without imposing a separate charge.[11] If such a requirement were to be imposed upon VIPs in the open platform design described above, the delivery of programming furnished by multiple VIPs might require the placement of several decoders in a single home. The recovery of multiple descrambler

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[9] Details of such a design are set forth in Ameritech's recently-filed Section 214 application; See, Application of the Ameritech Operating Companies For Authority Pursuant To Section 214 of the Communications Act of 1934, to Construct, Operate, Own and Maintain a Video Dialtone System, filed January 31, 1994.

[10] NPRM, at 14.

[11] NPRM, at 15.

costs via several VIPs' monthly charges could be overly burdensome, and thus discourage potential customers.[12]

III. Standards Issues

Ameritech generally supports the NPRM's standards approach, which is reasonably calculated to achieve the Commission's objectives in this matter.[13] However, the standards process should not be so structured or controlled that it delays the deployment of currently-available designs and technologies. In addition to jeopardizing current undertakings,[14] a heavy-handed standards process may also have a chilling effect as existing industry efforts proceed toward the same end.[15] This risk is particularly significant in light of the relatively early development stage of vehicles like LMDS, video dialtone, and other infant delivery systems not yet on the horizon.

The record to date reflects substantial support for an industry-driven standard process.[16] Standards produced by comprehensive industry efforts offer the best hope for long-term solutions to the compatibility issues raised

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[12] The final rules should be flexible enough to permit development of other technical approaches that may ultimately prove to be the best solutions to such problems. See, e.g., Comments of MCSI.

[13] Development of standards for new and rebuilt cable systems and new consumer equipment should satisfy the need for "an efficient, effective interface" between them, as well as the desire for "the flexibility needed to ensure compatibility through the transition from existing analog ... technologies to the next digital systems...". NPRM, at 9.

[14] Section 214 Applications are already pending for 17 video dialtone systems; similar deployment planning by other types of providers would also be at risk.

[15] See, e.g., Comments of Home Box Office, at 4-6.

[16] Comments of Bell Atlantic, at 2-3; Comments of Home Box Office, at 3-6; Comments of USTA, at 2; Comments of General Instrument Corporation, at 30-35; Comments of Mitsubishi, at 12-14.

in this Docket, and the Commission should seek input from a broad range of interested entities toward this end.[17]

IV. Conclusion

For the above reasons, the Commission should maintain its focus on customer interests by adopting rules which are sufficiently broad and flexible to accommodate both existing and evolving video delivery platforms.

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Dated: February 16, 1994

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[17] See, generally, Comments of USTA, at 2.

CERTIFICATE OF SERVICE

I, Linda Jeske, do hereby certify that a copy of the foregoing pleading has been served on all parties by first class mail, postage prepaid, on this 16th day of February, 1994.

Linda Jeske
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