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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of Section 19 of the)
Cable Television Consumer Protection)
and Competition Act of 1992)
)
Annual Assessment of the Status of)
Competition in the Market for the)
Delivery of Video Programming)

DOCKET FILE COPY ORIGINAL
CS Docket No. 94-48

REPLY OF BELL ATLANTIC¹

Despite the cable industry's glowing descriptions of the successes of their competitors, their carefully worded comments support Bell Atlantic's conclusion that there is little evidence of increased competitiveness in the local delivery of video programming since 1992. The best hope for vigorous competition to incumbent cable operators in the coming years lies in the expeditious removal of legal and regulatory barriers to the provision of video services by local telephone companies.

I. Cable Operators Continue to Face Minimal Local Competition for Delivery of Video Programming

The cable industry enthusiastically asserts the existence of robust competition among multichannel video program

¹ The Bell Atlantic telephone companies are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

distributors ("MVPDs").² But the comments filed in this proceeding make it clear that actual competition to incumbent cable providers has not increased since 1992, and that there is only greater potential for alternative delivery systems to provide such competition in the coming years.

Contrary to the claims of the cable industry, DBS systems do not currently provide a competitive alternative to most cable systems, nor will they provide a complete competitive alternative once they are in operation. First, although DirectTV and United States Satellite Broadcasting have introduced service in limited locations, nationwide distribution of high-power DBS service is, at best, "imminent."³ Second, DBS systems will primarily serve rural and other areas unserved or underserved by cable systems.⁴ Third, cable subscribers are unlikely to view DBS systems as a complete alternative, especially for cable basic services, because DBS systems do not carry local broadcast

² See, e.g., Comments of Time Warner Cable ("Time Warner") at 17-18; Comments of Tele-Communications, Inc. ("TCI") at 7.

³ See Time Warner at 18.

⁴ Primestar, the only DBS system currently providing national service, concedes that it primarily targets non-cable areas. Comments of Primestar Partners, L.P. ("Primestar") at 4 (acknowledging that 90% of its subscribers are located outside areas served by cable television); see also Comments of DirectTV ("DirectTV") at 13 (observing that Primestar's services are sold only through local cable operators as an "add-on" to local cable systems). Primestar believes that urban markets with state-of-the-art cable systems will be the last markets entered by DBS and other direct-to-home satellite programming providers, because lack of local programming puts them at a serious competitive disadvantage to the cable incumbent. Primestar at 8.

signals and programming, such as news, sports, and other community information.⁵

Likewise, wireless cable does not today provide a meaningful competitive alternative to cable. In fact, only one wireless cable system meets the Commission's standards for providing effective competition to an incumbent cable operator.⁶ The 550,000 current subscribers to wireless cable service⁷ are a tiny percentage of the 59 million who subscribe to cable.⁸

Most commenters also acknowledge that video services provided by local telephone companies can provide a competitive alternative to cable, but this competition is not yet a reality.⁹ While local exchange companies deploying video dialtone networks are likely to provide the only fully competitive alternative to cable service, their competitive potential is currently

⁵ Primestar at 8.

⁶ Comments of The Wireless Cable Association International, Inc. at 4-5.

⁷ Id. at 2.

⁸ See Comments of the National Cable Television Association, Attachment B.

⁹ See Time Warner at 18 (noting the "powerful competitive capability" of local exchange companies, and acknowledging that only applications for VDT trials have been approved to date); TCI at 10 (noting that telephone companies are "gearing up to compete in video distribution").

restrained by the lengthy backlog of Section 214 applications awaiting Commission approval.¹⁰

2. **The Commission Should Identify and Eliminate Additional Legal and Regulatory Barriers to Vigorous Competition by Video Dialtone Service Providers**

Other commenters join Bell Atlantic in urging the Commission to unleash the competitive potential of video dialtone by identifying and eliminating legal and regulatory barriers to telephone company entry into this market, including elimination or streamlining of the Section 214 application process,¹¹ and establishment of regulatory parity between cable and telephone companies.¹² The Commission's upcoming report to Congress on the state of competition in the video delivery market should emphasize the need for these measures, as well as for repeal of

¹⁰ Shortly after the date for the filing of initial comments in this proceeding, the Commission granted approval for Bell Atlantic-New Jersey, Inc. to provide the first commercial VDT service in the nation in Dover Township, New Jersey. See Application of New Jersey Bell Tel. Co., W-P-C 6840, Order and Authorization (rel. July 18, 1994).

¹¹ See Comments of GTE Service Corporation ("GTE") at 11-12; Comments of Nynex Telephone Companies ("Nynex") at 4-5; Comments of U S West Communications, Inc. ("U S West") at 3; and Comments of BellSouth Telecommunications, Inc. ("BellSouth") at 5-7.

Delays in receiving regulatory approvals have also stymied the entry of other alternative video delivery services. See TCI at 8 ("[O]ne of the few remaining hurdles for MMDS operators in offering effective and viable completion to cable operators is the Commission's current 3-5 year backlog of MMDS applications.")

¹² See GTE at 16-17.

the video programming ban on telephone companies and continued resistance to efforts to impose additional regulatory burdens on video dialtone at the local level.

Several commenters have provided the Commission with evidence that they continue to be subject to discriminatory or anticompetitive program access practices despite implementation of the Commission's new program access rules.¹³ One commenter also urges the Commission to strengthen the existing rules to provide broader protection from anticompetitive practices by authorizing assessment of damages for such behavior.¹⁴ As Bell Atlantic has emphasized in other proceedings, the problems encountered by these commenters reiterate the need for the Commission to be vigilant in enforcing its program access rules.¹⁵

Conclusion

For the reasons stated in Bell Atlantic's comments, the Commission should report to Congress that there is little evidence of increased competition in the video delivery market

¹³ See Comments of National Rural Telecommunications Cooperative ("NRTC"); DirectTV at 5.

¹⁴ See NRTC at 10-12.

¹⁵ See Implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992, Development of Competition and Diversity in Video Programming Distribution and Carriage, MM Docket 92-265, Joint Comments of Bell Atlantic and the Pacific Companies, at 9-11 (filed Jan. 25, 1993); id., Reply Comments of Bell Atlantic at 2-3 (filed Feb. 16, 1993).

today. The Commission should also identify for Congress and work to eliminate remaining legal and regulatory barriers to competition by alternative video delivery providers.

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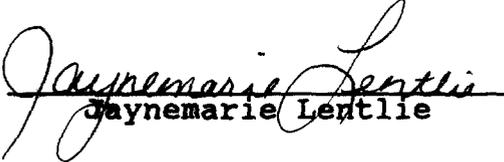
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Dated: July 29, 1994

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Reply of Bell Atlantic" was served this 29th day of July, 1994, by first class mail, postage prepaid, on the parties on the attached list.


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