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July 27, 1994

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FCC MAIL ROOM

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, D.C. 20554

Dear Chairman Hundt:

This letter is a call for common sense to prevail over favoritism 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, CS Docket No. 94-48.

An exclusive deal has been struck among United States Satellite Broadcasting Co., Inc. (USSB), Time Warner and Viacom programming. We are a member of the National Rural Telecommunications Cooperative (NRTC) and our customers are in rural Minnesota. The programming we offer, through the NRTC, is not exclusive. USSB could contract with any or all of the programmers we offer, but we can't offer theirs. Where is the common sense in that decision? Where is the level playing field? We welcome the competition offered by USSB, but only if we are able to price competitively.

We do not understand why PrimeStar, wireless, and cable have access to HBO and Showtime and we do not. We want to be able to offer our rural customers the same services that their urban neighbors have at comparable prices.

The FCC should be true to Congress's intent as put forth in the 1992 Cable Act. Please do not allow the exclusionary tactics as demonstrated in the USSB/Time Warner/Viacom deal.

Sincerely,

Jane L. Rush

Jane L. Rush
Director of Public Affairs

JLR:ALJ

cc: The Hon. Representative Tim Penny
The Hon. Representative David Minge
The Hon. Senator Paul Wellstone
The Hon. Senator David Durenberger
William F. Canton, Secretary
The Hon. James Quello
The Hon. Rachelle Chong
The Hon. Andrew Barrett
The Hon. Susan Ness

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MIDWEST MINNESOTA DBS

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The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW, Rm. 814
Washington, DC 20554

AUG 1 1994

RE: Cable Competition Report
CS Docket No. 94-48

Dear Chairman Hundt:

This letter is in support of the Comments of the National Rural Telecommunications Cooperative (NRTC) 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, CS Docket No. 94-48.

My company, Midwest Minnesota DBS, is owned by three rural telephone companies that are members of the NRTC along with Midwest Minnesota DBS. Midwest Minnesota DBS is a distributor of DIRECTV™ in Otter Tail, Todd, Becker, and Grant Counties in Minnesota. The sole objective of Midwest Minnesota DBS is to bring affordable satellite television to the rural customers in central Minnesota.

This objective is being hampered, despite passage of 1992 Cable Act, by the lack of access to programming owned by TimeWarner and Viacom. Midwest Minnesota DBS is unable to compete on a level playing surface with other television services due to the lack of access to popular cable networks such as HBO, Showtime, Cinemax, The Movie Channel, MTV, Nickelodeon, and others available only to my key competitor, the United States Satellite Broadcasting Co. (USSB), as a result of an "exclusive" contract signed between USSB and Time Warner/Viacom.

DIRECTV on the otherhand has not signed any exclusive programming distribution contracts and has left USSB at liberty to obtain distribution rights for any of the channels available on DIRECTV.

Mr. Hundt, Midwest Minnesota DBS agrees whole heartedly with the NRTC that these exclusive programming contracts do not follow the intent of the 1992 Cable Act. My belief is that the Act prohibits any arrangement that prevents any distributor from gaining

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MIDWEST MINNESOTA DBS

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access to programming to serve non-cabled rural areas under this situation. Under the present circumstances, if one of my DIRECTV subscribers also wishes to receive Time Warner/Viacom product, that subscriber must purchase a second subscription to the USSB service. This hinders effective competition, and as a consequence keeps the price of the Time Warner/Viacom channels unnecessarily high. It also increases consumer confusion at the retail level by making it necessary for the customer to receive two monthly bills to receive both DIRECTV and USSB products.

We believe very strongly that the 1992 Cable Act flatly prohibits any exclusive arrangements that prevent any distributor from gaining access to cable programming to serve rural non-cabled areas. That is why we supported the Tauzin Amendment, embodied in Section 19 of the Act.

We ask the FCC to remedy these problems so that the effective competition requirements of Section 19 become a reality in rural America. I strongly urge you to banish the type of exclusionary arrangements represented by the USSB/Time Warner/Viacom deal.

Thank you for your consideration in this matter.

Sincerely,

Rich Richter

cc:
The Hon. Collin Peterson
The Hon. Paul Wellstone
The Hon. David Durenberger
William F. Caton, Secretary
The Hon. James H. Quello
The Hon. Andrew C. Barrett
The Hon. Susan Ness
The Hon. Rachelle B. Chong

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TO: _____

FAX: 12026320163

FROM: DIGIVISION

FAX: 7168541995

TEL: 7168541994

03 PAGE[S] TO FOLLOW

COMMENT:

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DigiVision
181 Franklin St. ph. 716-854-1994
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AUG 1 1994

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW, Rm. 814
Washington, DC 20554

July 29, 1994

RE: Cable Competition Report
CS Docket No. 94-48

Dear Chairman Hundt:

I am writing this letter in support of the Comments of the National Rural Telecommunications Cooperative (NRTC) 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, CS Docket No. 94-48.

Despite the passage of the 1992 Cable Act, my company, which is a distributor of DIRECTV direct broadcast satellite (DBS) service in rural America, is unable to provide to its customers some of the most popular cable programming, owned by Time Warner and Viacom. The exclusive agreement between those vertically integrated program providers and USSB has caused confusion in the marketplace, single-provider consumer pricing, and is contrary to the intent of the 1992 Cable Act.

With the great changes in the distribution of video programming and information at hand, if one reviews the program accessibility of the various methods of distribution (cable, wireless cable, C-band, Ku-band, DBS), **all** have access to **all** programming, with the exception of certain TNT exclusive contracts expiring this year, **except** NRTC and DIRECTV. There is not one consumer who would understand the philosophy behind restricting competition, and therefore raising consumer prices, in this new era of consumer choice in video distribution.

I have spent 20 years in the cable business, until, in 1989 and 1990 became vice-president and GM of Wireless America, a company backed by Wall Street banking house D.H.Blair which attempted to launch wireless cable in a number of markets. We could not get access to ESPN, could not get access to HBO, could not get access to TNT, could not get access to Prime Ticket and were required to pay much higher prices

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for CNN and other popular cable programing than what was paid by cable operators. At that time then FCC Chairman Alfred Sikes was in Los Angeles (on February 12, 1990) for an FCC Field Hearing (which I attended) as part of its comprehensive study of the cable industry's operations. That investigation contributed to the legislative process which culminated in the 1992 Cable Act.

We abandoned the wireless project in 1990, as did many other would-be cable competitors, but I later became convinced that the 1992 Cable Act had finally put an end to exclusive programming contracts. So in 1993, local investors, at my urging, purchased distribution rights to DIRECTV through the NRTC, fully expecting to compete fairly and openly on the basis of pricing, packaging, and service with PrimeStar, USSB, Echostar, cable, wireless cable, and perhaps telephone companies. After having given up on wireless due to program access, I was certain, and the 1992 Act said so, that there was a prohibition of exclusive programing arrangements between vertically integrated cable operators/programmers (e.g., Time Warner./ HBO and Viacom/Showtime) and multichannel video distributors, (e.g., DIRECTV, NRTC), serving non-cabled areas, which is primarily what we do.

Yet somehow Time Warner and Viacom have made an exclusive arrangement with USSB for distribution of their programming. The only logic in permitting same is to say that USSB might suffer, as a company, if there were a free and open marketplace for programming. Is it the function of the FCC to micro-manage each industry, and worry about which companies might suffer? If no, then the USSB agreement should be prohibited. If yes, then where is the concern for the 300 NRTC members who have invested over $125 million in the DIRECTV project and are prohibited from offering popular cable programming on a competitive basis to rural Americans?

The focus here should be on Time Warner and Viacom more than USSB. If HBO/Showtime keep their services at artificially high prices in rural America through their exclusive distribution with USSB, then through this one exception to the intent of the 1992 Cable Act, the FCC will be giving Time Warner and Viacom inordinate power in the DBS industry. Here we have giant communications companies, partially owning the PrimeStar distribution system, and restricting their programming and thereby controlling the pricing to a competitor in the uncabled portions of rural America.

Our rural consumers have only had access to C-band technology as a way enhancing their television options. Some now have access to wireless cable, because the 1992 Act allowed that industry to obtain programming, and it subsequently was able to obtain financing. In our own world, we would just as soon not have the wireless competitor here, but he is here because the Congress and FCC fostered competition. He has all the programming available to him on his frequencies. He is a competitor, and yet I applaud the decisions which allowed him to be so. But is those same decisions which should allow us to compete fairly against him, and against USSB. So for some unknown, non-consumer reason, that line has been drawn in the sky against us, which means it has been drawn against our rural consumers, who now have **fewer** choices and **less competition** than they have a right to expect from their government.

We ask the FCC to allow the effective competition requirements of Section 19 of the Cable Act of 1992 to become a reality by prohibiting the exclusionary arrangement embodied in the USSB/Time Warner/Viacom deal.

Thank you for your consideration in this matter.

Sincerely,

Thomas C. Hunt
President

cc:
William Caton, Secretary
The Hon. James H, Quello
The Hon. Andrew C. Barrett
The Hon. Susan Ness
The Hon. Rachelle B. Chong