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JUSTIN C. POWELL, PH. D.  
JANETTE HOUK, PH. D.  
LESTER BORODINSKY, PH. D.  
  
TELECOMMUNICATIONS  
ENGINEER  
CHARLES F. TURNER

\*NOT ADMITTED IN D.C.  
◊RESIDENT BRUSSELS

WRITER'S DIRECT DIAL NUMBER

August 22, 1994

(202) 434-4210

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**EX PARTE NOTICE**

AUG 22 1994

VIA HAND DELIVERY

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**ORIGINAL**

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Ex Parte Presentation  
MM Docket No. 92-265  
Program Access Proceeding

Dear Mr. Caton:

On June 10, 1993, we filed on behalf of our client, the National Rural Telecommunications Cooperative ("NRTC"), a Petition for Reconsideration ("Petition") of the Commission's Report and Order in the above-captioned "Program Access" proceeding. Among other things, NRTC's Petition urges the Commission to reconsider its rule regarding exclusive programming arrangements in areas not served by cable.

On April 1, 1993, the Commission adopted its Report and Order implementing the Program Access provisions of the 1992 Cable Act. 58 Fed. Reg. 27658 (May 11, 1993). Section 628(c)(2)(C) of the 1992 Cable Act prohibits all "practices, understandings, arrangements, and activities . . . that prevent a multichannel video programming distributor from obtaining such programming . . . for distribution to persons in areas not served by a cable operator ..." 47 U.S.C. 548(c)(2)(C). The text of the Commission's Report and Order mirrors this language and states that the Commission's implementing rule "will prohibit vertically integrated programmers from engaging in activities that result in de facto exclusivity." Id., at para. 61. Under the actual language of the Commission's implementing rule (47 C.F.R. § 76.1002(c)(1)), however, only exclusive activities involving a cable operator are prohibited. Exclusive

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Mr. William F. Caton  
August 22, 1994  
Page 2

KELLER AND HECKMAN

activities involving a vertically integrated programmer and a distributor that is not a cable operator are permissible.

The Commission's failure to implement the statute as written by Congress has presented a serious, "real world" problem for NRTC, its Members and Affiliates, many of whom are rural electric and telephone cooperatives serving rural areas of the country. As a Direct Broadcast Satellite ("DBS") distributor, NRTC has no access to any of the popular programming of two of the largest, most vertically-integrated cable programmers: Time Warner and Viacom. Time Warner and Viacom have entered into exclusive DBS program distribution arrangements with United States Satellite Broadcasting Company, Inc. ("USSB") for the specific purpose of blocking access by NRTC and DirectTV to Time Warner's and Viacom's programming (*i.e.*, Cinemax, Flix, HBO, The Movie Channel, Showtime, Comedy Central, MTV, VH-1 and Nickelodeon). Because the USSB/Time Warner/Viacom exclusivity arrangement involves vertically-integrated cable programmers and not cable operators, it violates the language of the statute but does not appear to run afoul of the Commission's rule.

The USSB/Time Warner/Viacom exclusivity arrangement allows the vertically-integrated cable industry to control DBS as a competitive technology. It artificially restricts consumer choice, reduces competition to cable and unnecessarily inflates DBS retail prices.

Since NRTC filed its Petition for Reconsideration in MM Docket No. 92-265 (Program Access Proceeding), more than 100 Members and Affiliates of NRTC have written to the Commission and expressed their concerns regarding their inability to distribute Time Warner and Viacom programming.<sup>1/</sup> Copies of their letters are enclosed herewith for inclusion into the public record of the Program Access proceeding. Each letter describes the "real world," adverse impact of the USSB/Time Warner/Viacom deal on the development of DBS and the provision of video programming at the local level.

The USSB/Time Warner/Viacom deal is contrary to the letter and spirit of the 1992 Cable Act (47 U.S.C. 548(c)(2)(C)). We strongly urge the Commission to reconsider its "Program Access" rule and to implement the language of the statute by prohibiting this type of exclusive arrangement.

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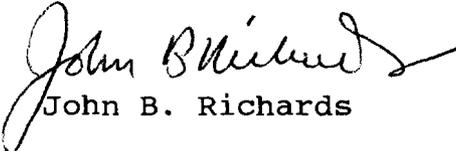
<sup>1/</sup> Cable Competition Report, CS Docket No. 94-48, Notice of Inquiry, FCC 94-119 (released May 19, 1994). A list of Commenters is attached hereto as Attachment "A."

Mr. William F. Caton  
August 22, 1994  
Page 3

KELLER AND HECKMAN

Your attention to this matter is appreciated. Should you have any questions or require any additional information, please contact the undersigned.

Sincerely,



John B. Richards

Attachment "A"  
Enclosures

cc (w/o enc.): The Honorable Reed E. Hundt, Chairman  
The Honorable James H. Quello  
The Honorable Andrew C. Barrett  
The Honorable Rachelle B. Chong  
The Honorable Susan Ness  
William E. Kennard  
James Olson  
Meredith Jones  
William H. Johnson  
Diane L. Hofbauer  
Amy Zoslov

**APPENDIX A**

**Commenters in Support  
of NRTC's Petition for Reconsideration**

**Program Access Proceeding  
MM Docket No. 92-265**

ADAMS-COLUMBIA ELECTRIC COOPERATIVE  
ADVANCED TEL-COM SYSTEMS CORPORATION  
ALLAMAKEE-CLAYTON ELECTRIC COOPERATIVE, INC.  
ARGOS  
ASSOCIATION OF ILLINOIS ELECTRIC COOPERATIVES  
BALDWIN COUNTY ELECTRIC MEMBERSHIP CORPORATION  
BLOCKER ELECTRONICS  
BLUEBONNET ELECTRIC COOPERATIVE, INC.  
BOONE ELECTRIC SATELLITE SYSTEMS, INC.  
BRAZOS TELEPHONE COOPERATIVE, INC.  
BRUNSWICK ELECTRIC MEMBERSHIP CORPORATION  
BUTLER COUNTY RURAL PUBLIC POWER DISTRICT  
CAMBRIDGE TELEPHONE CO.  
CASCO COMMUNICATIONS  
CEDAR VISION, INC.  
CENTRAL INDIANA COMMUNICATIONS, INC.  
CLARK ELECTRIC COOP  
CLARKS TELEPHONE COMPANY  
CLEAR VISION, INC.  
COLEMAN COUNTY BROADCASTING SYSTEMS  
COMCELL, INC.  
COWICHE TELEPHONE COMPANY  
CUMBY TELEPHONE COOPERATIVE, INC.

Friendship, Wisconsin  
Kerrville, Texas  
Postville, Iowa  
Hurst, Texas  
Springfield, Illinois  
Summerdale, Alabama  
Hot Springs, Arkansas  
Giddings, Texas  
Columbia, Missouri  
Olney, Texas  
Shalotte, North Carolina  
David City, Nebraska  
Cambridge, Nebraska  
Philomath, Oregon  
Hartington, Nebraska  
Maxwell, Indiana  
Greenwood, Wisconsin  
Clarks, Nebraska  
Madison, Mississippi  
Santa Anna, Texas  
Windthorst, Texas  
Cowiche, Washington  
Cumby, Texas

CVTV INCORPORATED  
DEEP EAST TEXAS TELECOMMUNICATIONS, INC.  
DELAWARE ELECTRIC COOPERATIVE, INC.  
DIGICOM SERVICES, INC.  
DIGITAL ONE TELEVISION  
DILLER TELEPHONE CO.  
DIRECT BROADCAST SATELLITE SYSTEMS, INC.  
DIRECT PROGRAMMING SERVICE  
DUCK RIVER ELECTRIC MEMBERSHIP CORPORATION  
DUNN COUNTY ELECTRIC COOPERATIVE  
EASTERN ILLINI ELECTRIC COOP.  
FALLS EARTH STATION  
FARMERS TELEPHONE COOPERATIVE, INC.  
GANADO TELEPHONE  
HARRISONVILLE TELEPHONE  
HICKORY TECH CORP.  
HOOSIER TELEPHONE, INC.  
HUMBOLT COUNTY RURAL  
IMAGES DBS  
INTERSTATE SATELLITE SERVICES, INC.  
IOWA LAKES ELECTRIC COOP  
JACKSON ELECTRIC COOP.  
JADE DIRECT BROADCAST  
JUDY S. DAVISSON  
KAMO POWER  
KANSAS DBS  
KIWASH ELECTRIC COOPERATIVE, INC.  
LIGONIER TELEPHONE CO., INC.  
MCCULLOCH ELECTRIC  
MCLEOD COOP  
MID CENTURY TELEPHONE COOPERATIVE, INC.

La Grange, Texas  
Center, Texas  
Greenwood, Delaware  
Sandersville, Georgia  
Williston, Vermont  
Diller, Nebraska  
Seymour, Indiana  
Louisville, Kentucky  
Shelbyville, Tennessee  
Dunn County,  
Paxton, Illinois  
Madison, New York  
Rainsville, Alabama  
Ganado,  
Waterloo, Illinois  
Mankato, Minnesota  
Dillsboro, Indiana  
Humbolt, Iowa  
Bartlesville, Oklahoma  
Clear Lake, South Dakota  
Estherville, Iowa  
Edna, Texas  
Alamosa, Colorado  
Colleyville, Texas  
Vinita, Oklahoma  
Kays, Kansas  
Cordell, Oklahoma  
Ligonier, Indiana  
Brady, Texas  
Glencoe, Minnesota  
Canton, Illinois

MIDLAND POWER COOP.	Jefferson, Iowa
MIDWEST MINNESOTA DBS	Perham, Minnesota
MID-WISCONSIN DBS	Amherst, Wisconsin
MORGAN COUNTY	Fort Morgan, Colorado
NEBRASKA RURAL ELECTRIC COOP	Lincoln, Nebraska
NODAK ELECTRIC COOP	Grand Forks, North Dakota
NORTH DAKOTA ASSN. OF RURAL ELECTRIC COOP.	Mandan, North Dakota
NORTHEAST RURAL	Vinta, Oklahoma
NORTH STAR ELECTRIC COOP. INC.	Baudette, Minnesota
NORTH TEXAS COMMUNICATIONS COMPANY	Muenster, Texas
OCMULGEE COMMUNICATIONS	Ocmulgee,
OMEGA CABLE	Saguache, Colorado
OSAGE VALLEY	Butler, Missouri
OSCEOLA ELECTRIC	Sibley, Iowa
OTEC COMMUNICATION COMPANY	Ottoville, Ohio
PANHANDLE TELECOMMUNICATION SYSTEMS, INC.	Guymon, Oklahoma
PEGASUS	Radnor, Pennsylvania
PENASCO TELECOM SYSTEMS	Artesia, New Mexico
PIONEER ELECTRIC COOP.	Greenville, Alabama
PKM ELECTRIC	Warren, Minnesota
PLANTERS ELECTRIC	Millen, Georgia
PLUMAS-SIERRA TELECOMM	Portola, California
POUDRE VALLEY RURAL ELECTRIC ASSN., INC.	Fort Collins, Colorado
PRESTON TELEPHONE	Preston, Iowa
PRIME WATCH	Enfield, North Carolina
RED LAKE ELECTRIC COOP.	Red Lake Falls, Minnesota
ROCKLAND TELEPHONE	Rockland, Idaho
ROSEAU ELECTRIC	Roseau, Minnesota
SANTEE SATELLITE SYSTEMS, INC.	Kingstree, South Carolina
SEMO COMMUNICATIONS	Sikeston, Missouri
SHELBY ELECTRIC	Shelbyville, Illinois

SIGNAL TV OF LAKE COUNTY  
SKY-VIEW TECHNOLOGIES, INC.  
SKYWAY RURAL COMMUNICATIONS  
SOURIS RIVER  
SOUTH ALABAMA ELECTRIC COOP.  
SOUTH CENTRAL PUBLIC POWER  
SOUTHWEST TEXAS COMMUNICATIONS, INC.  
STANTON COUNTY PUBLIC POWER DISTRICT  
STAYTON COOPERATIVE TELEPHONE COMPANY  
SWAYZEE  
TENNESSEE ELECTRIC COOPERATIVE ASSN.  
THE MONON TELEPHONE CO., INC.  
TIMES MIRROR  
TRANS-CASCADES  
TRI COUNTY  
TWIN VALLEYS PUBLIC POWER DISTRICT  
VAN BUREN TELEPHONE CO., INC.  
VIEW STAR  
WASHINGTON ELECTRIC MEMBERSHIP COOPERATIVE  
WEST RIVER TELECOMMUNICATIONS COOPERATIVE  
WINNEBAGO COOPERATIVE TELEPHONE ASSN.  
YELCOT TELEPHONE

Ronan, Montana  
St. George, Utah  
East Corinth, Vermont  
Minot, North Dakota  
South Alabama  
Nelson, Nebraska  
Rocksprings, Texas  
Stanton, Nebraska  
Stayton, Oregon  
Swayzee, Indiana  
Nashville, Tennessee  
Monon, Indiana  
Los Angeles, California  
Estacada, Oregon  
Portland, Michigan  
Cambridge, Nebraska  
Keosauqua, Iowa  
Dawsonville, Georgia  
Sandersville, Georgia  
Hazen, North Dakota  
Lake Mills, Iowa  
Mountain Home, Arkansas



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## Adams-Columbia Electric Cooperative

401 East Lake Street / P.O. Box 70  
Friendship, WI 53934-0070  
Telephone: (608) 339-3346  
(800) 831-8629

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July 19, 1994

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

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

Dear Chairman Hundt:

As General Manager of Adams-Columbia Electric Cooperative, I represent over 27,000 co-op members in a 12 county region of central Wisconsin. In addition to being a rural electric distribution cooperative, Adams-Columbia also serves as a retailer of C-band satellite television programming and is one-sixth member-owner of the Mid-Wisconsin DBS Cooperative, the local DirecTV™, DBS programming provider.

My concern is in regards to 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.

Mr. Hundt, Adams-Columbia agrees with the NRTC that the exclusive programming contracts of USSB and Time Warner/Viacom run counter to the intent of the 1992 Cable Act. At this point in time, our ability to compete in the local marketplace is being hampered by our lack of access to programming owned by Time Warner and Viacom. This fact not only inhibits effective competition, and subsequently allows the price of Time Warner/Viacom channels to remain unnecessarily high, but it also creates confusion in the mind of the consumer: why is it that they can obtain some programming through DirecTV™, but if they want additional networks such as HBO, Showtime, Cinemax, The Movie Channel, MTV and Nickelodeon, must they purchase a second subscription through USSB?

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## **Adams-Columbia Electric Cooperative**

401 East Lake Street / P.O. Box 70  
Friendship, WI 53934-0070  
Telephone: (608) 339-3346  
(800) 831-8629

I believe this runs counter to the original intent of the 1992 Cable Act. It is for this reason that I am asking the FCC to remedy these problems so that the competition requirements of Section 19 of the Cable Act become reality in rural America. I urge you to banish the type of exclusionary arrangements represented by the USSB/Time Warner/Viacom deal.

Thank you for your consideration in this manner.

Sincerely,

Jon Steinhaus  
General Manager

cc:

The Honorable Russel D Feingold  
The Honorable Herbert H Kohl  
The Honorable Thomas Petri  
William F Caton, Secretary  
The Honorable James H Quello  
The Honorable Andrew C Barrett  
The Honorable Susan Ness  
The Honorable Rachelle B Chong

210-896-6300

**ADVANCED TEL-COM SYSTEMS  
CORPORATION**

965 WATER STREET • P.O. BOX 1128  
KERRVILLE, TEXAS 78029-1128

August 5, 1994

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

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

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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.

As a rural telephone member of NRTC and distributor of the DIRECTV™ direct broadcast satellite (DBS) television service, my company is directly involved in bringing satellite television to rural consumers.

However, despite passage of the 1992 Cable Act, my company's ability to compete in our local marketplace is being hampered by our lack of access to programming owned by Time Warner and Viacom.

This programming, which includes some of the most popular cable networks like HBO, Showtime, Cinemax, The Movie Channel, MTV, Nickelodeon and others, is available only to my principal competitor, the United States Satellite Broadcasting Co. (USSB), as a result of an "exclusive" contract signed between USSB and Time Warner/Viacom.

In contrast, not one of the programming distribution contracts signed by DIRECTV™ are exclusive in nature, and USSB is free to obtain distribution rights for any of the channels available on DIRECTV.

Mr. Hundt, my organization agrees with the NRTC that these exclusive programming contracts run counter to the intent of the 1992 Cable Act. I believe that the Act prohibits any arrangement that prevents any distributor from gaining access to programming to serve non-cabled rural areas. Under the present circumstance, if

a family member of Kerrville Telephone Co. and  
Kerrville Communications Corporation

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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.

Not having access to the Time Warner/Viacom services has also adversely affected my ability to compete against other sources for television in my area. For instance, TCI is the cable provider to many of the small cities in our area. TCI has no effective competition from other cable companies. Our ability to compete within TCI's cabled areas is restricted by our inability to provide the same premium service programming (HBO, Showtime, etc.) which TCI routinely provides. Thus many residents in our area are denied the benefits of competing television programming delivery technologies.

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,



Scott S. Parker  
Senior Vice President/General Counsel

SSP/rrp

cc: The Hon. Representative Lamar Smith  
The Hon. Representative Greg Laughlin  
The Hon. Representative Henry Bonilla  
The Hon. Representative Chet Edwards  
The Hon. Representative Charles Stenholm  
The Hon. Senator Kay Bailey Hutchison  
The Hon. Senator Phil Gramm  
William F. Caton, Secretary  
The Hon. James H. Quello  
The Hon. Andrew C. Barrett  
The Hon. Susan Ness  
The Hon. Rachelle B. Chong



**Allamakee-Clayton  
Electric Cooperative, Inc.**

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228 W. Greene Street, P.O. Box 715, Postville, IA 52162  
(319) 864-7611

July 26, 1994

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

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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 of the Delivery of Video Programming, CS Docket No. 94-48.

As a rural electric member of the NRTC and distributor of the DirecTv direct broadcast satellite (DBS) television service, we are directly involved in providing satellite service to rural consumers.

However, despite passage of the 1992 Cable Act, our ability to compete in our local market is being hampered by our lack of access to programming owned by Time Warner and Viacom.

The United States Satellite Broadcasting Company (USSB), a principle competitor, and Time Warner/Viacom have signed "exclusive" contracts for many channels. These include some of the most popular cable networks like HBO, Showtime, Cinemax, The Movie Channel, MTV, Nickelodeon, and others.

In contrast, none of the programming distribution contracts signed by DirecTv are exclusive in nature, and USSB is free to obtain distribution rights for any of the channels available on DirecTv.

Mr. Hundt, we agree with the NRTC that these exclusive programming contracts run counter to the intent of the 1992 Cable Act. We also believe that the Act prohibits any arrangement that prevents any distributor from gaining access to programming to serve non-cabled rural areas. Under the present circumstances, if one of our DirecTv subscribers also wishes to receive Time Warner/Viacom product, that

**OFFICERS**  
ROGER ARTHUR, President  
RODNEY DREWES, Vice President  
DUANE L. KLINK, Sec./Treas.

LARRY W. REED, General Manager

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**DIRECTORS**  
DAVID ADAM  
LEO F. BYRNES  
LAVERNE J. GARMS  
MELVIN C. SCOTT  
KENNETH TIMMERMAN  
BERNARD J. WELSH

Hon. Chairman Reed Hundt

Page 2

July 26, 1994

subscriber must purchase a second subscription to the USSB service. This imposes substantially higher costs on the consumer and hinders effective competition, and as a further consequence keeps the price of the Time Warner/Viacom channels unnecessarily high. It also increases consumer confusion at the retail level.

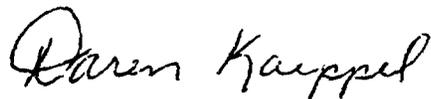
Not having access to the Time Warner/Viacom services has also adversely affected our ability to compete against other sources for television in our area. Primestar, which is a large cable owned medium powered DBS service, is able to proclaim "one stop shopping". This is due to the fact that they have rights to sell premium and basic services. By splitting programming access for a competitor, the large cable companies have been able to stifle competition for their Primestar service.

We strongly believe that the 1992 Cable Act flatly prohibits an exclusive arrangement that would prevent any distributor from gaining access to cable programming to serve rural areas. This 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 requirement of Section 19 become a reality in rural America. In addition, we 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,



Daren Kaoppel  
Manager, DBS Operations

cc: The Hon. Charles Grassley  
The Hon. Tom Harkin  
The Hon. James Nussle  
William F. Caton, Secretary  
The Hon. James H. Quello  
The Hon. Andrew C. Barrett  
The Hon. Susan Ness  
The Hon. Rachelle B. Chong



Direct Broadcast Satellite, Inc.

1550 N. Norwood  
Suite 100  
Hurst, TX 76054  
TEL: (817) 282-3596  
FAX: (817) 282-0559

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July 25, 1994

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

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

RE: Implementation of Section 19 of the  
Cable Television Consumer Protection  
and Competition Act of 1992  
CS Docket No. 94-48

Dear Chairman Hundt:

I am writing you with my concerns regarding the implementation of Section 19 of the 1992 Cable Act. I have recently read and fully support the comments of the National Rural Telecommunications Cooperative (NRTC) submitted to the FCC on 29 June 1994.

My company, Argos Direct Broadcasting Satellite (DBS), Inc., is a small business that is affiliated with the NRTC and DIRECTV to provide DBS programming. Many of our customers live in rural areas that do not have cable TV. When my investors and I were initially evaluating entry into the DIRECTV project, we were encouraged by provisions of the 1992 Cable Act. This action appeared to finally provide rural households the opportunity to receive competitively priced cable TV programming. However, as stated in NRTC's comments to the FCC, certain exclusive distribution arrangements still remain, such as those between Time Warner/Viacom and United States Satellite Broadcasting (USSB) for HBO, Showtime, The Movie Channel, etc. As a new small business, we find our company in the difficult and costly position of having to compete at an unfair advantage.

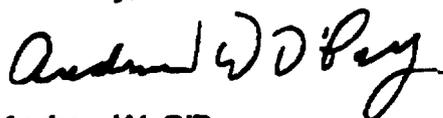
It is difficult to explain to our customers why we cannot offer certain cable TV programming in our package. Our customers are unhappy that they must purchase two separate programming packages, at appreciably added expense, to receive a full complement of programs, and some have decided the inconvenience and expense is too formidable. Not only does this deprive our customers of the most cost effective method of receiving programming, but it inhibits us from being able to offer a fair and equitable product, therefore, hurting our business. The exclusivity of USSB's distribution arrangement limits our ability to compete, and without competition the consumer will never realize the benefits of fair competition - lower prices with improved quality and service.

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**We are asking that you will review the issues put forth by NRTC and agree with their position that the FCC should act to enforce the wishes of Congress as stated in the 1992 Cable Act.**

**Our customers and our company thank you for your consideration of this important issue.**

**Sincerely,**



**Andrew W. O'Pry  
President  
Argos Direct Broadcast Satellite, Inc.**

**cc: The Honorable Senator Kay Bailey Hutchison  
The Honorable Senator Phil Gramm  
The Honorable Senator Bob Graham  
The Honorable Senator Connie Mack  
The Honorable Senator Robert F. Bennett  
The Honorable Senator Orrin G. Hatch  
The Honorable Representative Joe L. Barton  
The Honorable Representative Dick Arney  
The Honorable Representative Ralph Hall  
The Honorable Representative Sam Johnson  
The Honorable Representative Porter Goss  
The Honorable Representative Dan Miller  
The Honorable Representative James Hansen  
The Honorable Representative Karen Shepherd  
The Honorable Representative Bill Orton  
The Honorable William F. Catton, Secretary  
The Honorable James H. Quello  
The Honorable Andrew C. Barrett  
The Honorable Susan Ness  
The Honorable Rachelle B. Chong**

EX PARTE OR LATE FILED

115

**Association of Illinois Electric Cooperatives**

6460 SOUTH SIXTH FRONTAGE ROAD, SPRINGFIELD, ILLINOIS

MAIL REPLY TO: P. O. BOX 3787 SPRINGFIELD, ILLINOIS 62708

TELEPHONE: (217) 529-5561

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July 27, 1994

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AUG 4 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Honorable Reed Hundt, Chairman  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, DC 20554

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

Dear Chairman Hundt:

I am writing this letter in support of the Comments filed by 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.

The Association of Illinois Electric Cooperatives (AIEC) is a service organization for the 28 electric and six telephone organizations operating in Illinois. A number of our member-cooperatives are directly involved in the distribution of C-band satellite television programming to rural consumers in Illinois. Currently, their cost for access to popular cable and broadcast programming is significantly more than what comparably sized cable companies pay. As a result they must in turn charge customers more for their service, a fact that has already had a detrimental affect on their ability to compete in the marketplace. Since many of the consumers served live in remote areas not served by cable and off-air television, these consumers are forced to pay higher rates than their urban counterparts for access to television than their urban counterparts.

We understood that in the 1992 Cable Act, Congress had mandated that all distributors--cable, satellite and otherwise--should be granted equal access to cable and broadcast programming services at non-discriminatory rates. If this is the case, I am perplexed as to why our member-cooperatives are still paying more for many programming services than do comparably sized cable companies.

The AIEC joins NRTC in calling on the FCC to ensure that the intentions of Congress are being upheld with regards to the 1992

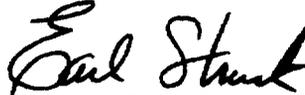
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G O O D F O R A L L I L L

Cable Act. In particular, I feel the FCC must prohibit abuses of the program access provisions of the 1992 Cable Act by rule and make it clear that damages will be awarded to program access violations.

Thank you in advance for your consideration.

Sincerely,



Earl Struck  
Executive Vice President

**ES/DW/ps**

cc: Willlliam F. Caton, Secretary, FCC  
Honorable James H. Quello, Commissioner, FCC  
Honorable Rachelle B. Chong, Commissioner, FCC  
Honorable Andrew C. Barrett, Commissioner, FCC  
Honorable Susan Ness, Commissioner, FCC

# CASCO

**COMMUNICATIONS**  
**PO Box 655 Philomath OR 97370 929-4000**

July 25, 1994

Blachly-Lane County  
Cooperative Electric  
Association  
90680 Highway 99  
Eugene, OR 97402  
688-8711

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

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AUG 2 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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

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Dear Chairman Hundt:

Consumers Power  
Inc.  
6990 SW West Hills  
Road  
PO Box 1180  
Philomath, OR 97370  
929-3124 or  
1-800-872-9036

As a cooperative formed by two rural electric and one rural telephone provider, and as a member of the National Rural Telecommunications Cooperative (NRTC), Casco Communications is a distributor of Rural TV for C-band systems and the DIRECTV<sup>tm</sup> direct broadcast satellite (DBS) television service. As such, my company is directly involved in bringing satellite television to rural consumers.

This letter is to voice my support of the Comments of the NRTC in the matter of Implementation of Section 19 of the Cable Television Consumers Protection and Competition in the Market for the Delivery of Video Programming, CS Docket No. 94-48.

Casco Communications' ability to compete in our local rural marketplace is being hampered by our lack of access to programming owned by Time Warner and Viacom, despite passage of the 1992 Cable Act.

This programming, including some of the most popular cable networks like HBO and Showtime and other premium movie channels is available only to my principal competitor, the United States Satellite Broadcasting Co. (USSB), as a result of an "exclusive" contract signed between USSB and Time Warner/Viacom.

However, none of the programming contracts signed by DIRECTV<sup>tm</sup> are exclusive in nature, and USSB is free to obtain rights to sell any of the channels available from DIRECTV.

Mr. Hundt, Casco Communications agrees with the NRTC that these exclusive programming contracts do not comply with the intent of the 1992 Cable Act. I believe the Act prohibits any arrangement that prevents any distributor from gaining access to

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Pioneer Telephone  
Cooperative  
1304 Main Street  
PO Box 631  
Philomath, OR 97370  
929-3135

programming to serve non-cabled rural areas. Currently, if one of my customers also wishes to receive Time Warner/Viacom channels, that customer must purchase a second subscription to the USSB service. I cannot provide competition with USSB for these services, and without competition the price of the Time Warner/Viacom channels is kept unnecessarily high.

Not being able to offer HBO, Showtime and the other USSB channels to my customers has also adversely affected my ability to compete against other sources for television in my area. For several years rural customers have been requesting that Casco's parent electric and telephone cooperatives provide them with quality information and entertainment television from a local service provider that is comparable to cable, which is not available to them. At last, through the availability of the DBS system, the technology is here; but I cannot provide service comparable to cable for these rural customers. I can provide some of the services they have been going without for years, but not the premium channels they know are available to cable subscribers in the urban areas. Now I have customers who cannot understand why I cannot provide them with these services.

Through their membership in the three parent cooperatives, these customers have invested in this project to provide quality and choice in television programming through a local source they can trust. Casco cannot provide the services for the premium offerings available only through USSB, nor can we assure our customers of quality customer service, or local resolution of billing problems, as we can with their DIRECTV programming. Instead, my customers must have two subscriptions, two monthly bills, make payments to two separate companies, and receive no local service for their USSB programming. Cable customers are not required to jump through these kind of hoops to have access to television programming. Rural customers should have the same opportunity and availability of quality television as those with access to cable.

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.

Casco Communications is asking the FCC to banish the type of exclusionary arrangements represented by the USSB/Time Warner/Viacom deal, and in so doing remedy these problems so that the effective competition requirements of Section 19 become a reality for customers in my section of Rural America.

Thank you for your consideration in this matter.

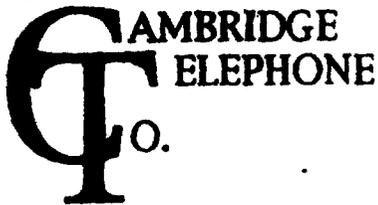
Sincerely,



LeeEllen Brown  
General Manger

c:

The Hon. Representative Ron Wyden  
The Hon. Representative Peter A. DeFazio  
The Hon. Representative Robert F. Smith  
The Hon. Senator Mark O. Hatfield  
The Hon. Senator Robert Packwood  
William F. Caton, Secretary  
The Hon. James H. Quello  
The Hon. Andrew C. Barrett  
The Hon. Susan Ness  
The Hon. Rachelle B. Chong



CAMBRIDGE  
ELEPHONE

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FCC MAIL ROOM

613 Patterson, Box G  
Cambridge, Nebraska 69022  
Phone 308-697-3333  
Fax 308-697-3631

July 18, 1994

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

RE: Cable Competition Report  
CS Docket No. 94-~~98~~  
48

Dear Chairman Hundt:

Cambridge Telephone strongly supports 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.

As a rural telephone member of NRTC and distributor of the DIRECTV direct broadcast satellite (DBS) television service, my company is directly involved in bringing satellite television to rural consumers in 11 counties of Southwest Nebraska.

However, despite passage of the 1992 Cable Act, my company's ability to compete in our local marketplace is being hampered by our lack of access to programming owned by Time Warner and Viacom.

This programming, which includes some of the most popular cable networks like HBO, Showtime, Cinemax, The Movie Channel, MTV, Nickelodeon and others, is available only to my principal competitor, the United States Satellite Broadcasting Co. (USSB), as a result of an "exclusive" contract signed between USSB and Time Warner/Viacom.

In contrast, none of the programming distribution contracts signed by DIRECTV are exclusive in nature, and USSB is free to obtain distribution rights for any of the channels available to DIRECTV.

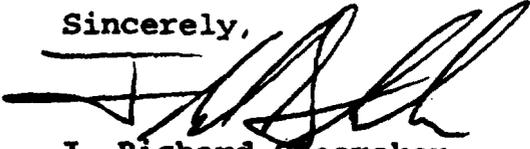
Cambridge Telephone Company agrees with the NRTC that these exclusive programming contracts run counter to the intent of the 1992 Cable Act. We believe that the Act prohibits any arrangement that prevents any distributor from gaining access to programming to serve non-cabled rural areas.

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We ask the FCC to remedy this situation 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,



J. Richard Shoemaker  
President  
Cambridge Telephone Company

cc:

The Hon. Representative Barrett  
The Hon. Senator Exon  
The Hon. Senator Kerrey  
William F. Caton, Secretary  
The Hon. James H. Quello  
The Hon. Andrew C. Barrett  
The Hon. Susan Ness  
The Hon. Rachelle B. Chong

# Butler County

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RURAL PUBLIC POWER DISTRICT

George E. Cunningham, General Manager  
Mills, Papik, and Watts, Attorney

P. O. Box 349  
1331 - 4th Street  
David City, Nebraska 68632  
(402) 367-3081

July 18, 1994

DOCKET FILE COPY ORIGINAL

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

Dear Chairman Hundt:

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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 Consumers 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.

As a rural electric member of NRTC and distributor of the DIRECTV direct broadcast satellite (DBS) television service, my company is directly involved in bringing satellite television to rural consumers.

However, despite passage of the 1992 Cable Act, my company's ability to compete in our local marketplace is being hampered by our lack of access to programming owned by Time Warner and Viacom.

This programming, which includes some of the most popular cable networks like HBO, Showtime, Cinemax, The Movie Channel, MTV, Nickelodeon and others, is available only to my principal competitor, the United States Satellite Broadcasting Co., (USSB), as a result of an "exclusive" contract signed between USSB and Time Warner/Viacom.

In contrast, none of the programming distribution contracts signed by DIRECTV are exclusive in nature, and USSB is free to obtain distribution rights for any of the channels available on DIRECTV.

Mr. Hundt, my organization agrees with the NRTC that these exclusive programming contracts run counter to the intent of the 1992 Cable Act. I believe that the Act prohibits any arrangement that prevents any distributor from gaining access to programming to serve non-cabled rural areas. Under the present circumstance, if one of my DIRECTV subscriber 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.

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Page 2

Not having access to the Time Warner/Viacom services has also adversely affected my ability to compete against other sources for television in my area. We have had potential customers tell us that they will not subscribe to DIRECTV because HBO/Showtime will not be available and they just don't understand why they can't purchase HBO and Showtime.

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.

Very truly yours,

BUTLER COUNTY RURAL PUBLIC POWER DISTRICT

*Geo. E. Cunningham*  
George E. Cunningham  
General Manager

GEC/vj

cc: Representative Douglas Bereuter  
Representative Peter Hoagland  
Representative Bill Barrett  
Senator Robert Kerrey  
Senator J. J. Exon  
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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**BRUNSWICK ELECTRIC MEMBERSHIP CORPORATION**

P.O. BOX 826  
SHALLOTTE, N.C. 28459

**RECEIVED**

July 22, 1994

(919) 754-4391 • 1-800-842-5871

JUL 26 1994

**FCC MAIL ROOM**

The Honorable Reed Hundt  
Chairman  
Federal Communications Commission  
1919 M. Street, N.W., Room 814  
Washington, DC 20554

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

Dear Chairman Hundt:

I strongly support Comments filed by 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.

As a rural electric member of NRTC, Brunswick Electric Membership Corporation is directly involved in the distribution of C-band satellite television programming to 238 rural consumers in North Carolina.

Currently, Brunswick Electric is forced to pay significantly more for access to popular cable and broadcast programming than comparable sized cable companies in our area. The fact that we are forced to pay inflated rates for program access means we must in turn charge consumers more for our service, a fact which has already had a detrimental effect on our ability to compete in our local marketplace.

Many of the consumers we serve live in remote areas not served by cable and off-air television. Since these consumers have not other choice for multichannel television programming other than satellite, they are forced to pay higher rates for access to television than their counterparts with access to cable.

It was my impression that, in the 1992 Cable Act, Congress had mandated that all distributors (cable, satellite and otherwise) should be granted equal access to cable and broadcast programming services at non-discriminatory rates. If this is the case, why are we still paying more for many programming services than comparably sized cable companies?

While it is true that some programmers have lowered their rates since the implementation of the 1992 Cable Act, we must have fair and equal access to all programming at rates comparable to those paid by cable or we will be unable to offer satellite television at prices acceptable to rural consumers.

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**The Honorable Reed Hundt**  
**Page 2**

In that regard, Brunswick Electric joins NRTC in calling on the FCC to monitor and combat the problems that I have mentioned above and to ensure that the intentions of Congress are being upheld with regard to the 1992 Cable Act.

Specifically, I feel that the FCC must prohibit abuses of the program access provisions of the 1992 Cable Act by rule and make it clear that damages will be awarded for program access violations.

I thank you for your attention on this matter.

Sincerely,



**David J. Batten**  
**EVP & General Manager**

cc: **The Hon. Jesse Helms**  
**The Hon. Charles Rose**  
**Mr. William Caton**  
**The Hon. James Quello**  
**The Hon. Rachelle B. Chong**  
**The Hon. Andrew Barrett**  
**The Hon. Susan Ness**