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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BY HAND

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

Re: MM Docket No. 92-266
Ex Parte Presentation

Dear Mr. Caton:

On behalf of ValueVision International, Inc. ("ValueVision"), this letter notifies the Commission that the undersigned met with Mary P. McManus yesterday to discuss the issues raised in ValueVision's petition for reconsideration and subsequent filings on leased access in the above-referenced proceeding, including the enclosed summary.

Sincerely yours,

William R. Richardson, Jr.

Enclosure

cc: Mary P. McManus

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July 15, 1994

VALUEVISION INTERNATIONAL, INC.

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Commercial Leased Access

- The 1992 amendments to commercial leased access were intended

    1. to promote competitive access; and

    2. to ensure certainty regarding leased access terms and conditions.

- Unfortunately, the Commission's "initial" May 1993 rules have achieved neither objective. Unaffiliated programmers now need "timely adjustments to the rules," as the Commission promised. Report ¶ 530.

- Getting it right will be important to ensure economic growth. Television home shopping is a $2B sector of the economy with enormous growth potential.

- This market is not now competitive, because integrated bottleneck cable operators have denied ValueVision competitive access.

    - QVC: $1.22B net revenue, 45.8M full time equivalent ("FTE") homes.

    - HSN: $1.05B net annual sales, 34M cable homes

    - ValueVision: $37M annual sales, 5.5M FTE homes.

    - MSOs have additional competitive disincentives, such as the development of their own home shopping or infomercial programming (such as Q2, onQ, the HSN Shopping Mall, and Time Warner's Catalog One).

        * Cox Roanoke, for example, has informed ValueVision that it cannot provide leased access because of the need to reserve capacity for its own infomercial programs.

- The implicit fee concept, originally proposed by TCI, undermines competition.

    - It is premised on a payment flow to programmers that does not exist, assumes that the cable operator is giving up a channel as valuable as all others, and seeks to provide the operator with maximum profit despite the very different premise of the 10-15% commercial leased access setaside.

    - It has enabled MSOs to raise their leased access rates from 8 to 90 cents or more per sub per month.

- **Most importantly, the implicit fee is discriminatory. Both QVC and HSN pay only an explicit fee of 5% of net sales.**

  * This explicit fee should serve as a benchmark for leased access rates. **Time Warner agrees.** (TW Recon. Pet. at 35.)

- The record already documents that the rules are not working.

  - Telemiami's leased access rate has gone up by 750%, an increase alleged by TCI to have been required by the Commission.

  - ValueVision is run by experienced former CVN executives who know the home shopping business. It has secured access with more than 40 MSOs, including Continental, Cablevision, Newhouse, and others in spite of, rather than because of, the new rules.

    * Before the 1992 Cable Act, ValueVision had leased access to more than 700,000 TCI subscribers. TCI threatened to drop ValueVision entirely when the new rules came into effect in September 1993, and did drop it from systems reaching over 500,000 subscribers. On other systems, TCI has demanded exorbitant rates (for example, 82 cents per sub per month in Oakland, NJ, or $1.8M per year), and **blamed its high rates on the Commission**.

    * Cox/Bakersfield has demanded 58 cents per sub per month, or $153,000 annually.

    * Many others have resisted or ignored requests for leased access rates.

- **For home shopping programming, the Commission should adopt the rate charged to competitors. Should the Commission need to address the non-profit need for commercial leased access through further inquiry, it should not delay further in addressing the problems for commercial programmers now.**