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92-266

National Cable Television Association

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RECEIVED

October 13, 1994

OCT 20 1994

Delivered by Hand

Ms. Meredith Jones
Chief, Cable Services Bureau
Federal Communications Commission
2033 M Street, N.W., Room 918
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY
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Re: Going Forward: Caps for Additions to Regulated Tiers
MM Dkt. 92-266

Dear Meredith:

Attached, please find the following documents:

1. A memorandum from Economists, Inc. to Cynthia Brumfield, Vice President, Research & Policy Analysis at NCTA, demonstrating the reasonableness of at least \$1.50 cap for additions to regulated tiers of programming. As this memo makes clear, the rapid increase in new programs launched or proposed to be launched justifies the \$1.50 proposed cap.
2. As support for the memorandum, a listing of new networks that exhibited at Cable '94, the New Orleans cable convention.
3. A copy of "Cable Television Developments", April 1994. Within the booklet, pages 1-C to 66-C, you will find listings of scores of program networks either available or planned for launch.

In addition to these listed networks, there are many networks that have been publicized in the trade press which are still in the development phase.

I hope these materials will be helpful to your consideration of the going forward approach in the above captioned docket.

Sincerely,

Daniel L. Brenner

Daniel L. Brenner

DLB:tkb

Attachments

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FEDERAL COMMUNICATIONS COMMISSION
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Memorandum

October 5, 1994

TO: Cynthia Brumfield

RE: Going-Forward — Adding Channels

This memorandum is in response to NCTA's request for an analysis of the proposal regulating what cable operators can charge for adding new channels. As we understand the proposal, an operator would be allowed to recover the programming cost of the channel and an additional mark-up of 20¢ to 25¢. The proposed mark-up of 20¢ to 25¢ is consistent with the mark-ups EI and Charles River Associates (CRA) calculated, but at the lower end of the estimated range.¹ There would be an additional constraint that an operator could at most increase rates by \$1.50 per year no matter how many new channels were added. The \$1.50 would include both programming costs and allowed mark-up.

In order to determine whether the \$1.50 cap is reasonable, we examined the historical increase in rates. CRA employed data from various GAO surveys, and determined that from 1986 to 1991, the average increase in rates per new channel was from 21¢ to 26¢, net of programming costs, inflation, and the FCC's estimated 17 percent competitive differential. Using these data, it is possible to determine how much rates increased

¹ See, Economists Incorporated, "Going-Forward Rule for New Channels," July 29, 1994, and S. Besen and J. Woodbury, Charles River Associates, "A Competitive Markup Approach to Establishing Rates when Adding Cable Program Services," June 29, 1994. EI found a lower bound of 30¢ for the markup was consistent with the historical experience of overbuild and municipal franchises. CRA found that the average monthly competitive markup ranged from 21¢ to 34¢.

on average each year due to channel additions, including programming costs but excluding inflation and the competitive differential.

Over the time period studied, November 30, 1986 to April 1, 1991, the average number of channels increased by 8.2.² CRA estimated that over this period the markup on each new channel was from 21¢ to 26¢. Hence the total markup due to new channels over the entire 52-month period was in the range of \$1.72 to \$2.13. In addition, based on CRA estimates for this time period, the average programming cost per satellite channel was 18.4¢. Hence the programming cost for the additional channels totaled \$1.51. We conclude that the total increase in rates for the period November 30, 1986 to April 1, 1991 that is attributable to the programming costs and markup of additional channels was between \$3.23 and \$3.64. This translates into a range of 75¢ to 84¢ per year.

It must be remembered that there have been changes in the rate of development of new cable networks. As noted above, over the 52-month period studied by CRA, on average slightly less than 2 new channels were added per year by the average cable system. During this same period, however, the number of available basic cable networks remained virtually unchanged. At the end of 1986 there were 52 basic cable networks.³ This number increased to 61 by 1991. Hence there were only 9 additional national cable networks over this period during which the average number of channels increased by 8.2.

In contrast, the number of national basic cable video networks increased by 11 from 1991 to 1993. In addition, over 25 networks announced plans to launch during 1994. Hence, recently there has been a much more rapid growth in the number of basic cable networks, far in excess of the

² Note that this corresponds to an average of 1.9 new channels per year.

³ See, NCTA, *Cable Television Developments*, April 1994, 7-A. These data were relied upon by the FCC in its recent Report to Congress.

two per year average that was experienced from 1986 to 1991. (Indeed, even if the growth *rate* of cable networks did not increase, the *number* of new channels available each year would increase over time.) It is conceivable, in fact likely, that in response to this growth in available programming, that operators will respond by adding new channels at a rate in excess of 2 per year unless rate regulation makes it unprofitable for them to do so. Given the anticipated markup and average cost of channels, operators could add only 4 of these new networks before the \$1.50 cap kicks in.

Given the recent growth in the number of available basic cable networks, it would be short-sighted to assume that operators will continue to add channels at the rate of 2 per year, as happened during a time when the number of national cable video networks added each year was smaller. The \$1.50 cap therefore affords consumers some protection from too-rapid rate increases, but at the same time allows operators and programmers to increase the number of channels made available to subscribers.

MEMORANDUM

DATE: October 13, 1994

TO: Dan Brenner

FROM: E. Dan Dobson

SUBJECT: New Networks Exhibiting at Cable '94

Per your request, listed below are the new networks that exhibited at Cable '94 in New Orleans:

- | | |
|--|-----------------------------|
| America's Health Network | Talk Channel |
| America's Talking | Telecompas Shopping Network |
| Americana Television Network, Inc. | TV Macy's |
| Catalog J | ViaTV Network |
| Classic Sports Network | Video Catalog Channel, Inc. |
| Collectors Channel | Your Choice TV |
| CPN Television, Inc. | |
| Cupid Network | |
| Ecology Channel, Inc., The | |
| Faith & Values Channel | |
| FX | |
| Gaming Entertainment TV (GETv) | |
| Gospel Network, The | |
| Health Channel, The | |
| Home & Garden Television Network, The | |
| Kalcidoscope: America's Disability Channel | |
| National Empowerment Television | |
| Outdoor Life Channel | |
| Ovation -- The Fine Arts Network | |
| Parent Television | |
| Popcorn Channel, The | |
| PSTN Parenting Satellite Television
Network | |
| Recovery Net, The Wellness Channel | |
| S, The Shopping Network | |
| Sportscope Television Network Ltd. | |

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