

94-48

Docket 222

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

SEP 29 1994

IN REPLY REFER TO:
CN 9404326

The Honorable Howell Heflin
United States Senate
728 Senate Hart Building
Washington, DC 20510-0101

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OCT 19 1994
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Dear Senator Heflin:

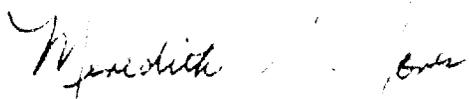
This is in response to your inquiry on behalf of a constituent, Mr. Gerald Lacey, General Manager of Farmers Telephone Cooperative, an affiliate of the National Rural Telecommunications Cooperative (NRTC). Mr. Lacey is concerned that DirecTV, operator of a direct broadcast satellite (DBS) facility, cannot obtain rights to Time Warner and Viacom programming, because such programming is subject to exclusive distribution rights of another DBS distributor, United States Satellite Broadcasting, Inc.

Mr. Lacey also expresses his support for the position of the NRTC concerning the Federal Communications Commission's interpretation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992. NRTC has requested that the Commission reexamine the legality of exclusive contracts between vertically integrated cable programmers and DBS providers in areas unserved by cable operators. NRTC has asked that the Commission determine that such contracts are prohibited.

NRTC's petition for reconsideration of the Commission's program access rulemaking proceeding is currently pending. As such, any discussion by Commission personnel concerning this issue outside the context of the rulemaking would be inappropriate. However, you may be assured that the Commission will take into account each of the arguments raised by NRTC and the other parties to the rulemaking concerning this issue to arrive at a reasoned decision on reconsideration.

I trust this information is responsive to your inquiry.

Sincerely,



Meredith J. Jones
Chief, Cable Services Bureau

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HOWELL HEFLIN
ALABAMA

COMMITTEE ON AGRICULTURE
NUTRITION AND FORESTRY
COMMITTEE ON THE JUDICIARY
COMMITTEE ON SMALL BUSINESS

THE SENATE CHAMBERLAIN
WASHINGTON, DC 20510-1100
202-224-3121

United States Senate

WASHINGTON, DC 20510-1100

August 30, 1994

CSB
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dbs

9404326

STATE OFFICES:

- 341 Federal Building
1500 Park Avenue, Suite 200
Birmingham, AL 35203
205-333-2000
- 417 U.S. Courthouse
Mobile, AL 36682
205-824-1161
- Federal Courthouse, Room 1209
1500 Park Avenue
Montgomery, AL 36103
205-268-2611
- 114 West 5th Street
P.O. Box 207
Tombigbee, AL 36611
205-836-1100

Ms. Laura Belvin
Director
Federal Communications Commission
Office of Legislative Affairs
1919 M Street, N.W., Room 808
Washington, D.C. 20554

Dear Ms. Belvin:

It is the preference of this office to be responsive to all inquiries and communications. Proper consideration of the enclosure is appreciated.

RE: The Correspondence of:

Mr. Gerald Lacey
Farmers Telephone Cooperative, Inc.
Post Office Box 217
Rainsville, AL 35986

Sincerely yours,


Howell Heflin

HH/gbl

Enclosure

278863 *LS*



Farmers Telephone Cooperative, Inc.

P. O. Box 217 * Rainsville, Alabama 35986 * Telephone (205) 638-2144 * FAX (205) 638-4830

July 25, 1994

Gerald Lacey - General Manager

- James Wilbanks, President
- Leo Grimes, Vice President
- Jerome Bryant, Secretary
- Gary Blevins, Treasurer
- Tommy A. Gilbert, Director
- T. E. Edd Whitton, Director
- Randy Wright, Director
- Morgan Weeks, Attorney

The Honorable Howell T. Heflin
 U.S. Senate
 Hart Senate Office, Room 728
 Washington, DC 20510

OFFICE OF SENATOR HEFLIN
 JUL 28 PM 3:10

Dear Senator Heflin:

Farmers Telephone Cooperative has invested in the rights to provide TV programming to our members in DeKalb and Jackson Counties through our affiliation with the National Rural Telecommunications Cooperative (NRTC). Because of some unfair pricing and programming restriction, we cannot compete on an equal basis with our competitors.

We believe that these discriminatory practices were prohibited by Congress with the passage of the 1992 Cable Act, however violations do exist. I am enclosing a copy of my letter to the honorable Reed Hundt, Chairman of the FCC which explains the problem in detail.

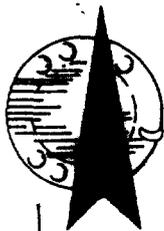
I respectfully request that you support our position at the FCC. Thank you for your continuing support of Rural America.

Sincerely,

Gerald Lacey,
General Manager

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Enclosure



Farmers Telephone Cooperative, Inc.

P. O. Box 217 * Rainsville, Alabama 35986 * Telephone (205) 638-2144 * FAX (205) 638-4830

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Morgan Weeks, Attorney

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

Dear Chairman Hundt:

This letter is in support of the comments of the National Rural Telecommunications Cooperative (NRTC) in the matter of the 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.

Farmers Telephone is an NRTC member investor in the direct TV project to provide television programming to mostly rural consumers in DeKalb and Jackson Counties in Alabama. Most of these consumers do not have access to cable TV. Most of these consumers live in sparsely populated areas and are unlikely to ever have access to cable, therefore their only choice to receive television service is by satellite. We need complete access to all programming at fair rates, comparable to those paid by our competition, in order to compete in our local market. We thought that Congress had already solved this problem two years ago with the passage of the 1992 Cable Act. We do not currently have DBS distribution rights for Time Warner and Viacom programming, like HBO, Showtime, Cinemax, the Movie Channel, VH-1, MTV, Nickelodeon, and others, because of the exclusive distribution arrangements they have made with United States Satellite Broadcasting Co., Inc. (USSB).

The lack of access to this programming is detrimental to our business and is hindering our ability to compete in our local area. Farmers Telephone Cooperative is owned by it's 16,000 members and has made a considerable investment in DBS to provide this service to them. It is hard to understand why PrimeStar, Wireless Cable and Cable TV companies should have access to this programming and we do not. The lack of this programming is unfair to our consumers because under the current USSB exclusive distribution arrangements, consumers interested in receiving Time Warner and Viacom programming must subscribe to two separate competing packages.

"Where Traditional Values and Modern Technology Meet."

Honorable Reed Hundt

July 25, 1994

page 2

If these services were provided by both Direct TV and USSB the consumer would be able to choose their service provider, resulting in effective competition, lower prices and improved service.

None of the contracts we have signed with Direct TV are exclusive, therefore USSB could offer the service if they choose to. We agree with NRTC's position that the FCC should act to enforce the wishes of Congress as put forth in the 1992 Cable Act.

We request that you monitor and disallow the type of exclusionary arrangements represented by the USSB/Time Warner/Viacom deal.

Sincerely,



Gerald Lacey,
General Manager

sd