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National Cable Television Association

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November 3, 1994

Delivered by Hand

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: Going Forward Rules
MM Dkt. No. 92-266

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Dear Chairman Hundt:

I am writing to highlight NCTA's position regarding collective packages of per-channel services under the 1992 Cable Act and the Commission's going forward rules.

As we have advanced in our comments, NCTA submits that packages of per-channel services offered at a reasonable discount are not "cable programming services" subject to regulation under the 1992 Cable Act. Section 623(1)(2) of the Act clearly defines the term "cable programming services" to exclude programming that is offered on a per-channel basis, "regardless of service tier." This language reflected Congressional awareness of the fact that many operators were offering discounted packages of per-channel services at the time the Cable Act was passed and that it was not Congress' intent to subject discounted packages of per-channel offerings to regulation as "cable programming services."

However, even if the Commission decides generally to consider all packages of services as "cable programming services" for purposes of declaring the FCC's authority to regulate their rates (whether such authority is exercised or not) -- a conclusion with which we would disagree -- it is imperative to avoid unnecessarily extending regulation over services which it does not and has never exercised authority.

47 C.F.R. Sec. 76.986(a) provides, "Collective offerings [of unregulated per-channel or per-program ("a la carte") video programming] available on April 1, 1993, shall not be regulated if subsequently offered on the same terms and conditions as were in effect on that date." Several programmers who provide premium network services, in separate letters to the Commission, have advocated approaches that modify or clarify what should be included in the scope of the above-quoted provision.

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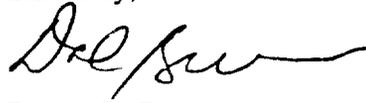
The Honorable Reed E. Hundt

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NCTA agrees wholeheartedly with the importance and urgency of the issues raised in these letters. We agree with the view that packages that consist of premium services that were available on a per-channel basis on August 1, 1993, should be included in the coverage of 76.986(a). And we believe that there could be other premium services that may develop or have developed since that time which should not be handicapped competitively and therefore should also be placed within the rule's ambit. To be most faithful to the Congress's intent in this area, NCTA urges the Commission to retain the unregulated status of all premium services offered on a collective basis, regardless of when such services are initiated, so long as they are also offered on a per-channel basis.

Sincerely,



Daniel L. Brenner

DLB:tkb

cc: All Commissioners
Meredith Jones, Esq., Chief, Cable Services Bureau
William Caton, Secretary