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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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November 29, 1994

HAND DELIVERED

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: Ex Parte -- MM Docket No. 92-260; RM 8380; MM Docket No. 92-265; MM Docket No. 92-266; CC Docket No. 87-266; Application of N.Y. Telephone Co. for Video Dialtone (File No. W-P-C 6836)

Dear Mr. Caton:

In accordance with Section 1.1200 et seq. of the Commission's rules, this is to advise that on Monday, November 28, 1994, Edward Milstein, Vice Chairman, and Peter Price, President, Liberty Cable Company, Inc. ("Liberty"), and Henry M. Rivera, Esq., Jay S. Newman, Esq., and W. James MacNaughton, Esq. met with Kathleen Wallman, Jill Ross-Meltzer, Rose Crellin, Richard Metzger, and Kathleen Levitz of the Common Carrier Bureau and Saul Shapiro of the Office of Plans and Policy to discuss Liberty's perspective, as contained in its previous filings with the Commission, on the above-captioned proceedings. The attachment to this letter was used in that discussion as well as a model to illustrate the cable inside wiring in multiple dwelling units. (A diagram of the model has been included herewith as Exhibit A.) A total of six copies of this letter, the attachment and Exhibit A are herewith provided to you, one copy for each proceeding.

An original and six copies of this letter, the attachment and Exhibit A were filed with the Commission and a copy was delivered to the above-named Commission personnel on November 29, 1994, as

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List A B C D E

the other meetings we had at the Commission on November 28, 1994 were not over until after the Secretary's office closed.

Sincerely,

Jay S. Newman

Attachments

cc: Kathleen Wallman
Jill Ross-Meltzer
Rose Crellin
Richard Metzger
Kathleen Levitz
Saul Shapiro

JSN:cas

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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212-891-7771

Its Attorneys

Henry M. Rivera
W. James MacNaughton
Jay S. Newman

November 28, 1994

LIBERTY CABLE COMPANY, INC.

- Liberty is a satellite master antenna television ("SMATV") operator that is successfully overbuilding and competing head to head in New York City with Time Warner, the local franchised cable company.

- Liberty currently services approximately 20,000 subscribers at dozens of sites in the New York metropolitan area.

- Almost all of Liberty's subscribers are in multiple dwelling units ("MDUs") -- cooperatives, condominiums and rental apartment buildings.

- Liberty also provides services to several hotels in Manhattan.

- Liberty is a pioneer in the use of the 18 GHz band to provide video services and has built the largest 18 GHz microwave network in the United States. Liberty was intimately involved in the efforts to obtain access to the 18 GHz band for the provision of video service.

- Liberty is also among the first MVPDs in the United States to test video dialtone service and technology.

LIBERTY CABLE COMPANY, INC.
HISTORY OF
PARTICIPATION IN FCC PROCEEDINGS

- **Amendment of Part 94 of the Commission's Rules to Permit Private Video Distribution Systems of Video Entertainment Access to the 18 GHz Band (PR Docket No. 90-5)**

- **Application of N.Y. Telephone Co. for Video Dialtone Service in NYC (File No. W-P-C 6836)**

- **Cable Must Carry/Retransmission Consent (MM Docket No. 92-259)**
  Comments filed 1/4/93

- **Cable Home Wiring (MM Docket No. 92-260)**
  Comments filed 12/1/92
  Reply Comments filed 12/15/92
  Petition for Reconsideration and Clarification filed 4/1/93

- **Cable Home Wiring (RM 8380)**
  Comments filed 12/21/93

LIBERTY CABLE COMPANY, INC.
HISTORY OF
PARTICIPATION IN FCC PROCEEDINGS
(Continued)

- **Cable Cross Ownership, etc. (MM Docket No. 92-264)**
  Comments filed 2/9/93

- **Cable Programming Access (MM Docket No. 92-265)**
  Comments filed 1/25/93
  Reply Comments filed 2/16/93
  Opposition to Petitions for Reconsideration by Time Warner and Viacom International filed 7/14/93
  Comments on Petition for Partial Reconsideration by WCA filed 5/24/94

- **Cable Rate Regulation (MM Docket No. 92-266)**
  Comments filed 1/27/93
  Reply Comments filed 2/11/93
  Opposition to various Petitions for Reconsideration filed 7/21/93

- **Status of Competition in the Market for the Delivery of Video Programming (CS Docket No. 94-48)**
  Comments filed 6/29/94
  Reply Comments filed 7/29/94

ISSUES

- VIDEO DIALTONE
- PROGRAM ACCESS
- PRICING
- PROPERTY ACCESS
  - * CABLE INSIDE WIRING

VIDEO DIALTONE

- LIBERTY'S EXPERIENCE
- EXPEDITED PROCESSING OF PENDING APPLICATIONS
- TELEPHONE COMPANIES SHOULD BE GIVEN FLEXIBILITY TO DEVELOP APPROACHES TO THE ISSUES OF COST AND CHANNEL ALLOCATION TO ENSURE TIMELY AND COMPETITIVE DEPLOYMENT
- ASSURE THAT ULTIMATE REGULATORY SCHEME PROMOTES COMPETITION

PROGRAM ACCESS

- Court TV made available to MVPDs despite Time Warner's efforts.

- WCAI Petition for Reconsideration granted.

- There should be no distinction in the treatment of programming delivered by satellite and programming delivered by other means such as cable.

  * Rationale for broadening the scope of § 19 of the 1992 Cable Act beyond "satellite-delivered programming" is sound.

  * FCC should lobby Congress to eliminate the statutory problem.

  * NY 1 Experience

PRICING

- **LIBERTY'S EXPERIENCE**
  - * Failure of State Franchising Authority to Act

- **BULK RATES**
  - * Not Cost Justified
  - * Selectively Applied
  - * "Under the Table" Additional Discount
    - - Stuyvesant Town Example
  - * Predatory Practices Must Be Eliminated
    - - New York AG's Investigation

PROPERTY ACCESS: CABLE INSIDE WIRING

- Time Warner continues to engage in anti-competitive practices which hinder a subscriber's ability to switch from Time Warner's service to Liberty's service.

- Various petitions which would affect the Commission's home wiring rules need to be resolved expeditiously.

- Liberty's position in the proceeding:

  THERE MUST BE EASY ACCESS TO DEMARCATION POINT AND CONVENIENCE TO SUBSCRIBERS

INSIDE WIRING AND LIBERTY'S PROPOSED SOLUTION

- **ACCESS TO DEMARCATION POINT AND CONVENIENCE TO SUBSCRIBERS**

1. The demarcation point (i.e., starting point) for "home wiring" in multiple dwelling units (MDUs) (i.e., apartment buildings, condominiums and cooperatives) should be the point where an alternate provider can access individual wiring (wiring used solely to serve an individual subscriber) without physically damaging the MDU premises or interfering with the provision of cable service to other residents of the MDU (i.e., the point in which a subscriber's dedicated line connects to the common wiring outside the subscriber's premises, but on the MDU property).

    - The FCC, in its Report and Order, adopted a demarcation point for individual wiring in MDUs that is twelve inches from the point where the wiring enters the outside wall of a dwelling.

    - This demarcation point does not provide alternate providers with adequate access to individual wiring in many MDUs.

    - In many MDUs, individual wiring may be accessed only in a hallway, stairwell, basement or rooftop -- more than twelve inches from where the wiring enters a dwelling.

    - This is because individual wiring, for some distance prior to entering a dwelling, is often buried in a concrete hall floor, encased within an inaccessible conduit attached to the inner skeleton of the building or concealed behind expensive custom designed hallway mirrors or wall coverings.

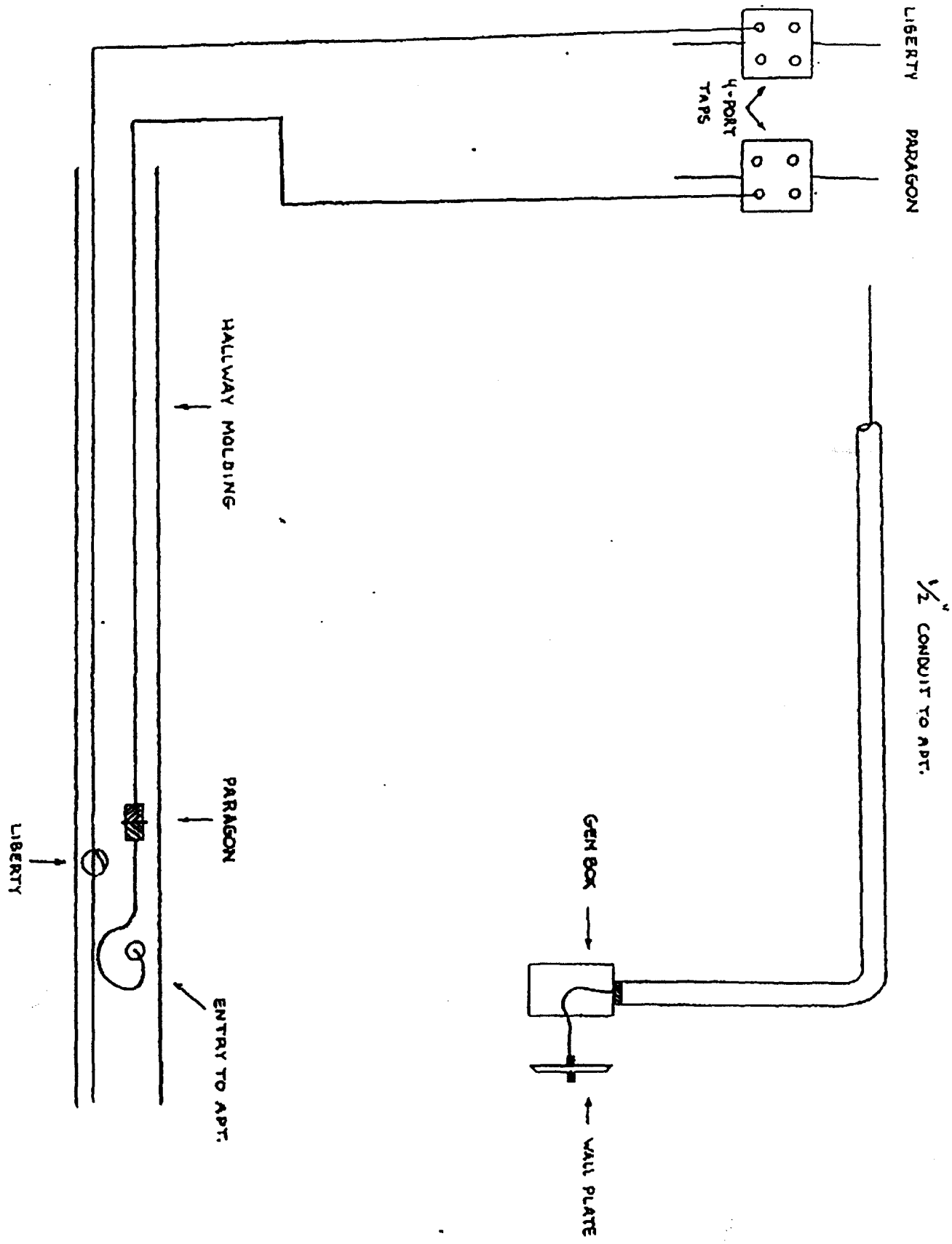
2. "Home wiring" should include "splitters" so as to resolve the space constraints in conduits and connection boxes in many MDUs which prevent alternate providers from installing a second splitter.

    - The FCC, in its Report and Order, did not specifically state that "splitters" are part of "home wiring" as Liberty had requested.

    - "Splitters" must be part of "home wiring" so as to provide alternate providers with adequate access to the dwelling.

    - If there is no room in the conduit or connection box for two splitters, the alternate provider is prevented from accessing the dwelling.

Exhibit A


LIBERTY
PARAGON
4-PORT TAPS
1/2" CONDUIT TO APT.
HALLWAY MOLDING
GEM BOX
PARAGON
LIBERTY
ENTRY TO APT.
WALL PLATE