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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of Sections of the	)	MM Docket No. 93-215
Cable Television Consumer Protection	)	
and Competition Act of 1992: Rate Regulation	)	

To: The Commission

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NATIONAL CABLE TELEVISION ASSOCIATION, INC.
<u>OPPOSITION TO BELL ATLANTIC PETITION FOR RECONSIDERATION</u>

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TABLE OF CONTENTS

Page

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NATIONAL CABLE TELEVISION ASSOCIATION, INC.
OPPOSITION TO BELL ATLANTIC PETITION FOR RECONSIDERATION

The National Cable Television Association, Inc. ("NCTA"), by its counsel, hereby submits its Opposition to the Petition For Reconsideration ("Petition") filed by the Bell Atlantic Telephone Companies ("Bell Atlantic") in the above-captioned proceeding. Bell Atlantic seeks reconsideration of the Commission decision declining to adopt, as part of the cable rate regulation price cap regime, a productivity offset to the Gross National Product-Price Index ("GNP-PI"). The Commission concluded that the record did not provide a basis for incorporation of a productivity offset into the price cap governing cable service rates.[1]

In its Petition, Bell Atlantic repeats the tired arguments it has raised previously in this proceeding, contending that regulatory parity requires the Commission to impose on the cable industry a productivity offset identical to that applicable to the telephone industry. It also argues, contrary to the Commission's correct conclusion, that the record in this proceeding supports imposition of a

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1 Memorandum Opinion and Order, MM Docket Nos. 93-215, FCC 92-246, released September 29, 1994 at ¶ 7 ("MO&O").

productivity offset on the cable industry. Bell Atlantic's arguments are -- once again -- without merit and its Petition should be dismissed.

INTRODUCTION AND SUMMARY

In our comments in this proceeding, we demonstrated that the proposed telephone company-derived productivity offset is inappropriate for use in price cap regulation of the cable industry which is not a utility.[2] Moreover, we showed that there was -- and is -- no evidence supporting imposition of the proposed two percent productivity offset.[3] One reason for the paucity of information is that "productivity" is difficult to measure in the context of the cable industry. Nevertheless, we demonstrated, through submission of a study by Christensen Associates, leading experts in the field of productivity analysis, that, to the extent "productivity" in the cable industry can be measured at all, the data provide no evidence to support a two percent -- or any other -- positive productivity offset.[4] Accordingly, the available record evidence indicated that there was no basis for incorporating the proposed productivity offset into the cable price cap calculation. Because of the cloud which the Commission's proposal had cast over the cable industry, we urged the Commission to promptly sever that issue from this proceeding and terminate consideration of a productivity offset for the cable industry.

The Commission did so -- correctly holding that "the current record does not provide an adequate factual basis for the incorporation of a productivity offset into

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2 Comments of the National Cable Television Association, Inc. MM Docket No. 93-215, CS Docket No. 94-28, filed July 1, 1994 at 19-22 ("NCTA Comments").

3 Id. at 11-13.

4 Id. at 13-17 and Attachment B thereto.

the price cap governing cable service rates."[5] It specifically rejected Bell Atlantic's submission -- "the only study submitted purporting to provide an economic analysis in support of a productivity offset factor for cable service" -- because it was "not based on an analysis of costs or productivity in the cable industry; rather the report essentially argues that cable operators should be subject to an offset, as required of telephone companies, given the rapid convergence of the two industries."[6] Reconsideration of that decision is not warranted.

The Commission's conclusion that the record would not support adoption of a productivity offset for cable was plainly correct. In reaching that decision, Bell Atlantic's "convergence" and "regulatory parity" arguments were rejected by the Commission and they may not be raised once again on reconsideration. In any event, they do not provide a basis for imposing a telco-like productivity offset on cable, which Congress directed should not be regulated like a common carrier. Finally, Bell Atlantic's claim that the study submitted by NCTA, "when properly evaluated," supports adoption of a LEC-like offset for cable (or vice versa) is without merit as are its other criticisms of that study.

A. Bell Atlantic Mischaracterizes The Commission Action and Raises No New Arguments

At the outset, it must be observed that Bell Atlantic mischaracterizes the Commission's action in the MO&O. It did not, as Bell Atlantic insists throughout its Petition, "adopt a productivity offset of zero for use in the cable TV industry price cap formula."[7] Instead, the Commission examined the record evidence and decided that no productivity offset was appropriate based on the record. That is a

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5 MO&O at ¶ 7.

6 Id.

7 See Petition at 1, 2, 14.

far cry from concluding that a productivity offset for cable is appropriate at all and that the correct offset is zero.

Moreover, Bell Atlantic's Petition is procedurally defective and may be summarily dismissed. Bell Atlantic raises the same "convergence" and "regulatory parity" arguments it has consistently raised in its earlier fillings in this and other proceedings.[8] In fact, Bell Atlantic's Petition relies upon the same Declaration and arguments of its consultant which it submitted with its Reply Comments in this proceeding. Those arguments were addressed and specifically rejected by the Commission in the MO&O.[9] It is well settled that petitions for reconsideration may not be used to merely rehash arguments presented to, and rejected by, the Commission at an earlier stage of a proceeding. "[B]are disagreement, absent new facts and arguments properly submitted, is insufficient grounds for granting reconsideration."[10] For this reason alone, the Bell Atlantic Petition should be dismissed.

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8 See Comments of Bell Atlantic at 3-6 ("The Commission should adopt a productivity offset for cable that is at least equivalent to the offset that is ultimately adopted for local telephone companies in the ongoing price cap review proceedings"); Bell Atlantic Reply Comments at 2-10.

9 MO&O at ¶7.

10 Creation of an Additional Private Radio Service, 1 FCC Rcd 5, 6 (1986). See also WWIZ, Inc., 37 FCC 685, 686 (1964) aff'd sub nom. Lorain Journal Co. v. FCC, 351 F.2d 824 (D.C. Cir. 1965), cert. denied, 383 U.S. 967 (1966); Florida Gulfcoast Broadcasters, Inc. 37 FCC 833 (1964).

B. No Productivity Offset is Warranted For the Cable Industry

In any event, Bell Atlantic's "regulatory parity" argument will not withstand scrutiny. As NCTA and others have shown in this proceeding, there is no reason to incorporate a productivity offset into the cable price cap regime merely because one is used in the context of the telephone industry's price cap regulation.[11] Such an offset is simply inappropriate for the cable industry, which is not a utility.

Moreover, there is no meaningful analogy between the telephone and cable industries that can be advanced in support of applying a telco-derived productivity offset to cable; and, in any event, Congress explicitly cautioned the Commission not to regulate cable as a utility or a Title II common carrier.[12] For these reasons, "convergence" or "regulatory parity" is not a reason for imposing a telco-like offset on cable. Indeed, those same reasons provide an independent basis for the Commission to conclude that no productivity offset is appropriate for the cable industry regardless of how one interprets the record evidence with respect to alleged productivity gains in the industry.

Second, and more significantly, Bell Atlantic ignores the fact that virtually all of the record evidence -- except for its own submission -- supports the Commission's decision to reject a productivity offset for cable. The commenters who addressed the issue were virtually unanimous in opposing the proposed productivity offset.[13] Indeed, only three commenters -- GTE, Bell Atlantic, and

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[11] See NCTA Comments at 19-22; CATA Comments at 9; TCI Comments at 50-54; TWE Comments at 29-30; Comcast Comments at 13-16; Continental et al. Comments at 55-56.

[12] See 47 U.S.C. §541. ("Any cable system shall not be subject to regulation as a common carrier or utility by reason of providing any cable service"). See also H.R. Rep. No. 628, 102d Cong. 2d Sess. 83 (1992) (instructing Commission not to "replicate Title II regulation" in its regulation of the cable industry)

[13] See CATA Comments at 8-9; TCI Comments at 50-54; TWE Comments at 28-34; Comcast Comments at 13-17 Continental et al. Comments at 52-56; Viacom

FW&A -- urged adoption of a productivity offset for cable. However, none of those commenters offered any meaningful evidence to support its position. Indeed, GTE essentially referred to what it called the New Jersey "study" upon which the Commission based its proposal,[14] ignoring the fact that no such "study" existed. As a number of commenters noted, the "New Jersey Comments" (cited by the Commission in its Notice of Proposed Rulemaking) consisted of only an unsupported suggestion in one paragraph of the comments filed by the Staff of the New Jersey Board of Regulatory Commissioners.[15]

The New Jersey filing provided no empirical basis for a cable industry productivity offset of two percent, or any other measure. The sum total of the New Jersey "comments" on the productivity offset issue in this docket consists of the following:

> [The] Board's Staff repeats the position of the Board that the GNP-PI should be reduced by a static productivity offset, such as 2%. The productivity offset, such as 2% is meant to reflect the known benefits of technology improvement occurring in the cable industry. The economic benefit of such improvements and efficiencies are fairly passed to the cable subscriber through the productivity offset mechanism. Board's Staff believes that the Commission might adjust this offset, if necessary on a yearly basis, but it should be clearly stated that such an index and offset approach could result in rate decreases and that such decreases are intended.[16]

Footnote continued

Comments at 18-20; Discovery Comments at 9; Liberty Media Comments at 22-24.

[14] GTE Comments at 12-15.

[15] See NCTA Comments at 12. See also Comcast Comments at 16-17; TCI Comments at 50-51; TWE Comments at 31.

[16] NJ Staff Comments at 11. The Board's Comments (filed in MM Docket No. 92-266) referenced in the NJ Staff Comments merely stated that "we would reduce

That "evidence" -- essentially one unsupported, conclusory paragraph -- was hardly sufficient to support the Commission's proposal of a two percent productivity offset and no additional evidence was submitted to buttress the original Commission proposal.

In fact, there simply was no record evidence to support the proposed two percent -- or any other positive -- productivity offset, as NCTA and others demonstrated in their comments.[17] The NCTA Comments were supported by the Christensen Report, which attempted to directly measure cable's productivity, and by an indirect productivity study conducted by Economists Incorporated ("EI"). Both studies demonstrated that no positive productivity offset is warranted for the cable industry.[18]

The only party which even attempted to provide support for the Commission's proposal -- Bell Atlantic -- submitted with its initial comments a Declaration from Dr. Robert Harris which purportedly supports the view that the Commission should adopt comparable productivity offsets in the telephone and cable industries. But most of the Harris Declaration was and is irrelevant to the productivity offset issue; rather, as the Commission correctly concluded, it was another effort to support the Bell Atlantic "regulatory parity" theme. The Harris Declaration, of course, ignored the fact that Congress has warned the Commission

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Footnote continued

the [GNP-PI] by a static productivity offset, such as 2%. This Board has recently adopted such an approach in the context of a [sic] economic regulation for a local exchange carrier and we believe the Commission should give this type of methodology serious consideration." New Jersey Board Comments at 16.

17 See NCTA Comments at 11-19; TCI Comments at 50-53; TWE Comments at 31-34; Comcast Comments at 14-17; Viacom Comments at 19.

18 See NCTA Comments at Attachment B (Christensen Report) and Attachment C (Economists Incorporated, "A Comparison of Real Rates Charged by Competitive Cable Franchises in 1986 and 1993 Based on the 1994 FCC Cable Rate Rules"' June, 1994).

not to regulate cable as a utility or as a Title II common carrier. Moreover, to the extent both the Bell Atlantic Comments (at n.16) and the Harris Declaration (at 7 and n.5) (as well as the GTE Comments (at n.23)) cited to productivity studies done for the telephone industry by Christensen Associates, it is telling that Christensen Associates, leading experts in measuring productivity, in this proceeding prepared the report supporting NCTA's Comments, which Bell Atlantic has now criticized.

C. Bell Atlantic's Criticisms of the Christensen Report Are Unfounded

In its Petition, Bell Atlantic first contends that the burden was on the cable industry to prove that no productivity offset was warranted and that the industry had failed to meet "its burden."[19] However, despite similar suggestions from the Commission earlier in the proceeding, the record showed that there was simply not enough data over a long enough time period to accurately measure cable industry productivity because the industry had only recently become rate-regulated on a large scale. Nevertheless, the industry submitted the Christensen Report which used current, though admittedly limited, data. Remarkably, Bell Atlantic, citing the Declaration of its consultant Robert G. Harris which was submitted with its Reply Comments, attempts to use the Christensen Report to demonstrate that a productivity offset is warranted for cable. In addition to claiming that the sample upon which the Christensen Report was based was self-selected, Bell Atlantic argues that the Christensen study itself, "when properly evaluated, actually shows that productivity growth for cable companies has been at least as high as that of the local telephone companies."[20] But, as discussed below and further explained in

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[19] Petition at 2, 4-6.

[20] Id. at 6.

the attached response of Christensen Associates,[21] Bell Atlantic's contentions will not withstand scrutiny.

First, Bell Atlantic claims that the cable industry ignored repeated Commission requests for evidence of cable's productivity growth. This claim itself ignores the indirect evidence on productivity that the cable industry had provided in addition to the "direct" Christensen Associates productivity study submitted with the NCTA Comments. The indirect evidence on productivity focused on changes in cable industry charges for basic service over time. Similar indirect studies of productivity have been accepted as evidence of productivity in previous FCC proceedings. Indeed, such indirect studies were used extensively in the AT&T and Local Exchange Carrier price cap dockets. Those indirect studies of telephone productivity were based on changes in telephone tariffs over time. Three of these studies were conducted by the FCC staff, and these studies were relied upon heavily by the Commission in setting the productivity offsets for the telephone carriers.[22]

Second, Bell Atlantic and its consultant contend that the total factor productivity study conducted by Christensen Associates understates the cable television industry's rate of total factor productivity growth because of "self-selection" bias. Neither Bell Atlantic nor its consultant offers any credible evidence

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21 "Analysis of 'Declaration of Robert G. Harris in Support of Reply Comments of Bell Atlantic,'" July 8, 1994, by Laurits R. Christensen, Phillip E. Schoech, and Mark E. Meitzen, attached hereto as Attachment A.

22 See Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Further Notice of Proposed Rulemaking, 3 FCC Rcd 3195, 3491 (Appendix C - "Analysis of AT&T Productivity (1984-88)") (1988); Second Report and Order, 5 FCC Rcd 6786, 6885 (Appendix C - "A Study of Local Exchange Carrier Post Divestiture Switched Access Productivity"), 6929 (Appendix D - "The Long Term View of the Appropriate Productivity Factor For Interstate Exchange Access") (1990).

that self-selection bias exists and in fact none did exist. As discussed in more detail in Attachment A, participation in the study was limited because of the great difficulties involved in obtaining data for such a study, which itself is a reason why the Commission's decision not to adopt a productivity offset for cable was appropriate.

Third, Bell Atlantic and its consultant state that the Christensen Report itself, when "properly evaluated," allegedly shows that cable productivity growth has been at least as high as that of the local exchange carriers. But Bell Atlantic's "proper evaluation" involves substituting an incorrectly measured index of cable television output for the correctly measured output index developed by Christensen Associates. Bell Atlantic's consultant asserts that a cable television output index must include the number of subscriber-channels and the level of overall viewership in order for the output index to be suitable for productivity analysis. However, as Christensen Associates explains in Attachment A hereto, a detailed analysis of output measurement leads to the conclusion that an output measure based on subscriber channels and on the level of overall viewership would be grossly inaccurate. Productivity measures based on grossly mis-specified output measures provide no useful information on the appropriate level of a productivity offset.

Fourth, Bell Atlantic argues that the similarity between cable television and telephone technologies is sufficient reason for setting equal productivity offsets for the two industries. Yet, even if the technologies used in the two industries are quite similar, their rates of productivity growth can be quite different. These differences can be due to such factors as output growth, the relationship between price and marginal costs for different services, and unmeasured improvements in program quality. To require that the productivity offsets in the two industries be the same, even though their expected rates of total factor productivity growth are different, is simply not reasonable.

Finally, one additional point should be noted with respect to Bell Atlantic's discussion of technology convergence in the cable television and telephone industries. Virtually the entire "convergence" discussion rests upon a high degree of speculation. At this time, it is unclear how quickly the cable television and telephone companies will begin to resemble one another. Currently, there are very few communities which have or will soon have competition between the cable television and telephone industries. This means that Bell Atlantic's discussion of future technology trends is based on almost no data (though it faults the Christensen Report for insufficient data).

While Bell Atlantic is correct that the FCC must treat similarly-situated entities similarly or explain the difference in treatment,[23] for purposes of the productivity offset proposal the cable and telephone industries are not similarly-situated and reasonable grounds exist for treating them differently on that issue. For example, earlier comments in this proceeding neatly encapsulate the reasons (1) why the record is virtually barren of data supporting a cable productivity offset and (2) why the LEC offset is not appropriate for cable. Putting aside the fact that the LEC price cap regime was adopted, in part, to relax the previously existing regime for regulation of telephone earnings (as opposed to the reason for, and effect of, the cable price caps), as Comcast noted, "[u]nlike the telephone industry, which has been studied extensively for decades, there are no forty-year longitudinal studies of cable that show the kinds of consistent productivity gains that characterize the telephone industry."[24] And, as Time Warner observed:

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[23] See Bell Atlantic Comments at 13.

[24] Comcast Comments at 14 (footnote omitted).

> Prior to proposing a productivity offset for the telephone industry, the Commission conducted its own long-term and short-term studies and thoroughly reviewed and analyzed two AT&T pre-divestiture studies, two independent studies, and three corroborative findings. The two studies performed by the Commission included a short-term study of productivity for interstate switched access since divestiture and a long-term study of the total telephone industry between 1928 and 1989. By the time the Commission had issued its Second Further Notice of Proposed Rulemaking in that proceeding, it had "amassed a great deal of information about productivity of the telecommunications industry." Describing its record as "exhaustively detail[ed]," the Commission nevertheless sought further comment, study and statistical analysis of the subject before deciding on a productivity offset figure.[25]

That type of detailed Commission analysis leading up to adoption of LEC productivity offsets relied on historical studies of productivity in the telephone industry reaching back over decades during which the industry had been regulated and data on which a productivity offset could be based was being gathered. That type of record evidence is a far cry from the speculative theories upon which Bell Atlantic would have the Commission base a cable productivity offset.

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25 TWE Comments at 31-32 (footnotes omitted).

CONCLUSION

The Commission was correct in concluding that the record does not support adoption of a productivity offset for cable. In fact, based on the record and Congressional intent with respect to the regulation of the cable industry, it is clear that no productivity offset is warranted or appropriate for the cable industry and that the type of data on which a productivity offset should be based is simply not available in sufficient quantity to consider adopting such an offset. For the reasons stated above, the Bell Atlantic Petition should be dismissed.

Respectfully submitted,

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December 15, 1994

Attachment A

Analysis of "Declaration of Robert G. Harris In Support of Reply Comments of Bell Atlantic" (filed July 8, 1994)

Lauritis R. Christensen, Philip E. Schoech And Mark E. Meitzen
December 12, 1994

Analysis of "Declaration of Robert G. Harris in Support of Reply Comments of Bell Atlantic," July 8, 1994
Laurits R. Christensen, Philip E. Schoech
and Mark E. Meitzen
December 12, 1994

Dr. Harris makes two assertions which he believes undermine the results of our total factor productivity study of the cable television industry[1]. The first assertion is that the data limitations of our study bias the results of our study downward. The second assertion is that our study did not measure output correctly. Both of Dr. Harris's assertions are incorrect.

Dr. Harris's assertion that the results of our study are biased is based on his speculation that the cable systems included in our study are unrepresentative of the cable television industry. But Dr. Harris offers no evidence to support this speculation, and we do not believe that there is any such evidence. In fact, the three MSOs that participated in our study own a large number of diverse cable systems, and data on all the systems owned by these MSOs were included in our study.

Dr. Harris speculates that the cable systems in our study may be subject to self-selection bias. This speculation is based upon an assumption that MSOs whose cable systems had above average productivity growth would have known that their productivity growth was above average, and on the basis of that knowledge, would have decided not to participate in the study. This assumption is implausible. An alternative, and much more plausible, explanation of MSO participation in our study

[1]Laurits R. Christensen, Philip E. Schoech, and Mark E. Meitzen, "Productivity Growth in the Cable Television Industry," June 29, 1994.

lies in the variety of obstacles faced by cable systems in providing the necessary data on a timely basis. These obstacles were discussed in our productivity study. They included the absence of a uniform system of accounts, the request for historical data on all systems currently operated by each MSO, and the tight deadlines of the project.

Dr. Harris suggests that the results of our study might be biased because of the timing between construction and output expansion, but we see no basis for this claim. The cable television industry is composed of diverse systems. In any one year, some systems will be undertaking capacity expansion while others will be expanding output over existing capacity. Since the MSOs contained in our study also are composed of numerous and diverse cable systems, it is likely that some of the systems had capacity expansion in some years while others saw output expansion over existing capacity. If the timing of capacity and output were a problem for our study, our aggregate MSO data would show a preponderance of years with low aggregate output growth and high aggregate capital growth. The MSO data that we present in our report do not show such a preponderance.

Dr. Harris's second assertion is that our cable television productivity study uses an incorrect measure of output. In making this assertion, he presents a false dichotomy between physical measures of output growth and output measures obtained by deflating revenue by a price index. Correctly specified physical measures of output and correctly specified output price indexes are related to each other; the correctly specified physical measure of output can be arrived at by dividing total revenue by the correctly specified price index. This property of prices and quantities is termed "duality" in the economic literature. In empirical applications, there are often difficulties in calculating the correctly specified price index or the correctly specified physical measure of output. In those instances, the researcher chooses the approach to output measurement that comes closest to the ideal. In evaluating Dr. Harris's claim that our output index is incorrect, one must determine whether our output index, or an output index incorporating the dimensions listed by Dr. Harris (number of channels and overall viewership) should be used to measure cable television output.

If one were to construct a price index of cable television basic programming, one would not base it on minutes of viewing time, since basic service is not on a pay-per-view basis. Likewise, the price index would not be based on revenue per channel, since basic service rates are not on a per channel basis.[2] Since the correctly specified price index would not be based on revenue per minute of viewing time or revenue per channel, it is also the case that the correctly specified quantity index of output would not be based on viewing minutes or subscriber-channels. We believe that our output index, which is based on the number of subscribers, comes much closer to approximating the ideal than would the index proposed by Dr. Harris.[3]

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[2]While basic service rates do generally rise with an increase in the number of channels offered, the percentage increase in the customer bill is generally less than the percentage increase in the number of channels. When the impact of additional programming cost is removed (as it needs to be in a total factor productivity study that nets out programming cost), the percentage increase in customer bills is even less.

[3]Some services provided by cable television systems were not included in total output (e.g. advertising, installation, and equipment rental). This was because data

Since the telephone industry and the cable television industry provide different services, and because they have different rate structures, output price and output quantity must be measured differently in the two industries. We believe that we have accurately measured output in both the telephone and cable television industries, even though the computations are not identical.

Dr. Harris also fails to acknowledge that, for all practical purposes, it would be impossible to implement a cable television index that mimics the telephone industry output index. In order to develop an index that mimics the telephone output index, one would need to know the number of channels received by customers and the number of minutes spent viewing each channel. Dr. Harris offers an approximation to his proposed index, based on the number of subscriber-channels, but this approximation is biased. The reason his approximation is biased is that subscribers tend not to increase their total viewing time in proportion to the increase in channels. Dr. Harris states that the average number of channels per subscriber in the United States increased from 29 in 1984 to 56 in 1992, an increase of 93 percent. But he offers no evidence that the average viewer increased his total viewing time by 93 percent, and we find it implausible that customers increased their viewing time by that amount.

Dr. Harris's argument that the productivity offset for the cable television

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were unavailable to compute the revenue, price, and quantity for these services. If data were available, the total output index would be calculated as a Tornqvist index of basic service, premium service, and other services, with revenue weights. There is no evidence to suggest that such an expanded output index would show materially greater growth than the output index we computed.

industry should be at least as high as the telephone industry's appears to be based largely on his conjecture that the technologies in the two industries will converge in the near future.[4] As we discussed in Chapter 2 of our telephone industry productivity study[5] the rate of total factor productivity growth for an industry is dependent upon the rate of output growth, the relationship between price and marginal cost for each service, and the rate of technical change. Even if industry convergence will lead to similar rates of technical change in the cable television and telephone industries, differences in the rates of output growth and differences in the relationship between price and marginal cost will still lead to differences in total factor productivity growth. In addition it is likely that program quality improvements have an impact on the rate of observed total factor productivity growth for the cable television industry, as we noted in our report.

For these reasons, we believe the best basis for determining the future rate of cable television total factor productivity growth is its historical rate of total factor productivity growth. The current record shows that the cable television industry's rate of total factor productivity growth has been -1.9% per year. Since U.S. economy total factor productivity growth has been .3% per year,[6] a productivity offset based

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[4]Declaration of Robert G. Harris, attachment to Comments of Bell Atlantic in MM Docket 93-215 and CS Docket 94-28, July 1, 1994

[5]Laurits R. Christensen, Philip E. Schoech, and Mark E. Meitzen, "Productivity of the Local Operating Telephone Companies Subject to Price Cap Regulation," May 3, 1994.

[6]U.S. Bureau of Labor Statistics, Multifactor Productivity of the Private Business Sector, 1984-1992, released July 11, 1994. Since the release of our cable television total factor productivity study, the Bureau of Labor Statistics made significant

on the observed total factor productivity performance would be minus 2.2%. While the Federal Communications Commission's believes that "... the current record does not provide an adequate factual basis for the incorporation of a productivity offset into the price cap governing cable service rates,"[7] we believe that the record demonstrates that any positive productivity offset would be unwarranted.

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revisions to their estimate of private business sector multifactor productivity. The .3% growth rate reflects these revisions.

[7]Federal Communications Commission, Memorandum Opinion and Order, MM Docket No. 93-215, released September 29, 1994.

CERTIFICATE OF SERVICE

I, Leslie D. Heath, do hereby certify that, on this 15th day of December, 1994, copies of the foregoing "National Cable Television Association, Inc. Opposition to Bell Atlantic Petition for Reconsideration" were served by first class mail, postage prepaid, to the following:

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