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

In the Matter of:	)	
	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket 93-215
	)	
	)	MM Docket 92-266
Rate Regulation	)	

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REPLY COMMENTS OF THE CABLE TELECOMMUNICATIONS ASSOCIATION

Cable Telecommunications
Association.
3950 Chain Bridge Road
P.O. Box 1005
Fairfax, VA 22030-1005
703/691-8875

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REPLY COMMENTS OF THE CABLE TELECOMMUNICATIONS ASSOCIATION

1. The Cable Telecommunications Association ("CATA"), hereby files reply comments in the Further Notice of Proposed Rulemaking in the above-captioned proceeding. CATA is a trade association representing owners and operators of cable television systems serving approximately 80 percent of the nation's more than 60 million cable television subscribers. CATA files these comments on behalf of its members who will be directly affected by the Commission's action.

2. The comments filed in this proceeding are unanimous in their conclusion that the Commission has, to date, given inadequate relief to small cable television systems. Although commenters have made different suggestions with respect to what systems should be considered "small" and the extent of relief granted to such systems, all agree that the cost per subscriber of operating small systems is greater than for large systems,

and, moreover, that such systems do not have the capacity to deal effectively with the Commission's complex regulatory program. Other common themes have emerged -- If the Commission can adopt different sets of regulations for telephony based on the size of companies (whether measured in terms of subscribers or gross revenues), than it can do so for cable systems. System size should be determined on a franchise, not headend, basis. Ownership of the system should not determine whether a small system can get regulatory relief. CATA continues to subscribe to all these points.

3. As CATA noted in its comments, the Commission has already recognized that the Cable Act does not restrict small system relief only to systems with fewer than 1000 subscribers. The Act only calls for special concerns for the administrative burdens that might be visited on these systems. The Commission has already granted substantive (certainly not administrative) relief to operators with fewer than 15,000 total subscribers - so it can be done. Even administrative relief need not be limited to systems with fewer than 1000 subscribers. The Commission has given administrative relief by using the so-called "streamlined" approach to determining rates, for "small systems" defined as those with fewer than 1000 subscribers, <u>or</u> those owned by MSOs that have no more than 250,000 total subscribers, and that only own systems with less than 10,000 subscribers each, and that have a total <u>average</u> system size of 1000 subscribers or fewer. As the Commission has apparently recognized, the Congressional concern

over systems with fewer than 1000 subscribers does not mean that the Act prevents the Commission from taking a different regulatory approach to systems of different sizes.

4. Given that the Commission may regulate according to system size, CATA suggests that the Commission take advantage of the menu of options suggested in this proceeding and not restrict itself to a single definition that must be applied for all purposes. The cable "industry" is a collection of different sized businesses with varying problems and varying concerns. The Commission can and should adopt a flexible program to regulate accordingly. For instance, as has been suggested in this proceeding as well as others, the Commission could simply decide not to regulate a certain class of small systems - systems with fewer than 3500 subscribers, or if this figure is determined to be unpalatable, systems with fewer than 1000 subscribers. The rationale for such action would be simple. At some level of subscribership a system earns so little revenue that it becomes virtually inconceivable that the federal government in all its majesty must step in and protect subscribers from the depredations of monopoly power. Surely at some point, (perhaps when a cable operator has to have two jobs in order to make a living?) one can stand back and say, "This is silly. There is no demonstrated need for rate regulation. The emperor has no clothes." As an alternative, CATA has already proposed its "alternative regulation" plan that would at least allow small systems to have rates determined through a mutually agreed upon

bargaining process with local franchising authorities. Even if the Commission were to deregulate totally systems with fewer than some number of subscribers, this scheme might still apply to systems beyond that number. Yet another class of systems might be granted relief from the onerous process of completing Commission forms.

5. Another approach the Commission can take is to adopt a "sliding scale" up to 15,000 subscribers, for instance, for determination of reasonable rates. Instead of ordering rate reductions of 17 percent across the board, smaller systems would be subject to lower reductions, and the very smallest systems, no reduction at all. Its transition approach for small operators is a beginning. Shorn of other regulatory impediments, such as defining systems by headend and size of parent company, a sliding scale approach could result in a more rational system of rate reduction (should reductions be warranted) while still recognizing the special circumstances of small systems.

6. A fundamental issue that the Commission must face is that because it is more expensive for cable operators to build, maintain, and re-build systems with a small number of subscribers, those subscribers may well have to pay more for cable service. Distasteful as it may be to an agency that believes its goal is to lower cable rates, the fact remains that small system rates may have to be higher, particularly if they

are to re-build their systems in order to compete with other technologies. Rural telephone companies are subsidized. Rural cable companies are not. Many goods cost more in rural America simply because it costs more to ship them. By beginning to recognize the business realities of providing cable service in small communities, the Commission will enable these companies to continue to provide services and re-build their systems to take advantage of new opportunities.

respectfully submitted,

THE CABLE TELECOMMUNICATIONS ASSOCIATION.

by: Stephen R. Effros
Stephen R. Effros
James H. Ewalt
Robert J. Ungar

Cable Telecommunications Association.
3950 Chain Bridge Road
P.O. Box 1005
Fairfax, VA 22030-1005
703/691-8875