RECEIVED

JAN 13 1995

FCC MAIL ROOM

In the Matter of

Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation	)	MM Docket No. 92-266
Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation	)	MM Docket No. 93-215

DOCKET FILE COPY ORIGINAL

COMMENTS BY THE CHAIR OF THE SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

1. The FCC already allows quarterly adjustments to cable rates for:

* Inflation
* FCC Regulatory Fees
* Franchise and PEG Access Cost Increases
* Upgrading Subscriber Equipment

2. When the provisions of the Going Forward rules are added, the combined effect negates much of the Cable Act's rate regulatory intentions for a pre-competitive environment and questions the reasonableness of local government's participation with the FCC as rate regulators.

3. The FCC has failed to consider the cumulative effect of its numerous automatic pass-throughs to cable subscribers and should implement an annual upper limit for the increases. Or, delay the "Going Forward" rules until it has examined the effects of the rate relief already in-place.

4. There are two ways the proposed "Going Forward" rules allow for new and unwarranted automatic pass-throughs of programming cost increases. The first is simple: Because programming rate increases pass-through to subscribers automatically, cable operators have no incentive to negotiate low-cost contracts. The second is more technical. Any small subscriber shift to New Product Tiers will trigger rate increases to the majority of subscribers who do not change their service.

No. of Copies rec'd 0+9
List A B C D E

REMOVAL OF COST SAVINGS INCENTIVE

5. Because of the automatic pass-through to subscribers of programming cost increases, there is no incentive for cable operators to negotiate aggressively its new programming contracts. There is no negative effect on a cable operator's cash flow to accept outlandish increases in programming contracts, and the FCC authorizes a 7.5% mark-up, besides. This is a very large loop-hole in the FCC's regulatory scheme and is doubly unfair because many of the cable MSO's own the programming services. For example, industry sources report that new contracts for programming like USA have 1995 increases of 8%.

HIDDEN COST INCREASES

6. Cable operators, often in corporate level master contracts, agree to pay fees for programming services. These fees are usually assessed on a graduated basis depending upon the percentage of total subscribers taking a particular programming service.

7. A typical programming contract might assess costs as follows. Please note the aggressiveness of the inverse relationship between the monthly cost per sub at 95% penetration and the cost per sub at, say, 89%.

Subscriber	95%-100%	$0.30 Cost per sub/month
Penetration	90%-95%	$0.37
	85%-90%	$0.50

8. The FCC's proposed rules provide that cable operators may pass-through directly to subscribers, <u>increases</u> in the costs of programming. The rules also provide that cable operators may move current programming to New Product Tiers (NPT) as long as the programming also remains available within existing Basic Service Tiers (BST) or Cable Programming Service Tiers (CPST). (The NPT are optional services which subscribers may take by affirmative choice.)

9. Herein lies the problem. A cable operator which establishes an attractive NPT and successfully markets it to subscribers as a "niche" programming choice in-lieu of the CPST, has the effect of increasing programming costs to those remaining CPST or BST subscribers.

10. In a system of 50,000 CPST subscribers, if 3,000 subscribers drop the CPST and subscribe to the NPT, the operator's initial loss of revenue will likely be offset by lower programming costs because there are 3,000 subs not taking the CPST. However, because the CPST channels are now only viewed by 47,000 subs, a 6% drop, the operator's programming cost (for the hypothetical channel described above) increases by 66% from $.30 to $0.50 (or $0.20 per sub) for the remaining 47,000 subs on the CPST. These increases are immediately passed through to those CPST subscribers who have made no change in their programming, and when multiplied by the effects of the contracts for all the CPST programmers, could be very costly to consumers.

11. Industry sources state that programmers like COURT TV increase monthly rates by over 400% if penetration goes below 85%. Similarly, USA is reported to increase monthly rates by 25% with a 95% to 90% change in penetration.

CONCLUSION

12. Without upper limits on automatic increases, or delaying new rate relief before completing an assessment of the rate relief already in place, the FCC is negating the intentions of the Cable Act at the expense of cable consumers. The FCC's rate regulations are complicated and too costly for many local governments to implement. Continued local government participation with the FCC in rate regulation is even more questionable if the combined effect of the automatic increases returns cable rates, or rate increases, to pre-Cable Act levels.

Respectfully submitted,

Roger Dickinson, Chair
Sacramento Metropolitan Cable Television Commission

January 12, 1995

95-010