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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:)
)
TELEPHONE COMPANY-CABLE TELEVISION)
Cross-Ownership Rules, Sections 63.54-63.58,)
)
and)
)
Amendments of Parts 32, 36, 61, 64 and 60 of)
the Commission's Rules to Establish and)
Implement Regulatory Procedures for Video)
Dialtone Service)

CC Docket No. 87-266

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R 11-8221

**REPLY COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits these reply comments in response to the Commission's Third Further Notice of Rulemaking the above-captioned docket. USTA is the principal trade association of the local exchange carrier industry with over 1,000 members. All of the LECs that have filed video dialtone applications with the FCC are USTA members. While we recognize that all interested parties' concerns must be addressed, we request that the Commission balance the requirement for due process against the fact that video dialtone has been an exhaustively discussed issue. Thus, USTA focuses these comments on only a few issues raised in the comment phase. We ask the Commission to move expeditiously to make video dialtone a reality for the millions of customers affected by the pending Section 214 applications.

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I. CAPACITY CONSTRAINTS.

The FCC has asked for commenters' views on how it can best implement its requirement that video dialtone platforms have the capacity to accommodate multiple programmers. We agree with AT&T, the Consumer Electronics Group of the Electronics Industries Association and various telephone company commenters that the FCC is correct in not dictating the technology to be used in video dialtone service. Clearly, the record supports the Commission's goal, which is to allow video dialtone to develop free from the artificial constraints that regulation can cause. Carriers must be free to explore all viable options to create the full and fair competition in the video services market that the Commission desires. On this issue, the evolution of technology should be accommodated, and so capacity shortfalls should be addressed on a case-by-case basis, as they arise.

The Commission is correct in its intention to deal with channel-sharing on an ad hoc basis. While USTA's ultimate goal is to remove the requirement for Section 214 approval from the video dialtone deployment process, we believe that in the short term, it is an adequate vehicle for addressing various parties' concerns. The record conclusively shows that various technological platforms create many feasible sharing plans, none of which are clearly superior to the others and none of which have been actually technologically proven by deployment. The FCC certainly is justified in its decision that establishing a uniform sharing plan is inappropriate at this time.

II. PREFERENTIAL ACCESS PROPOSALS

While the Commission has no legal basis to mandate preferential access, USTA believes that a carrier providing video dialtone service should be afforded the flexibility to respond individually to the needs of its local customers for preferential access to the regulated platform. In individual situations, the provision of preferential access arrangements may be in the best interest of both the public and the carrier. For any preferential access offering to successfully meet the requirements of free speech and the requirement to provide video dialtone on a common-carrier basis, it must be voluntary and limited to a reasonable amount of capacity. Carriers operate in video markets that are essentially local in nature and must be allowed to tailor their plans to the local public need.

On implementational issues such as qualifying participants, number of channels and other details, USTA believes that a uniform, industry-wide approach would be not only harmful; it would also be unfair. Certain deserving entities may not be able to access the network in that environment, and a standardized plan for preferential access cannot be fairly designed to meet the often conflicting needs of the various video dialtone service providers and programmers. Thus, companies who volunteer to provide preferential access should have the flexibility to develop qualifications, application processes, capacity etc., depending upon that carrier's local conditions. These conditions include factors such as system architecture and technology, available capacity,

and end user demographics. Each plan, of course, would be subject to review before the appropriate regulatory agency upon complaint by any aggrieved party.

III. POLE ATTACHMENTS AND CONDUIT RIGHTS

The FCC has requested comment on whether it should use the Section 214 process to police access to the poles and conduit. As to pole attachments and conduit access, there are a number of effective rules, and safeguards already in place. There is no need to further burden the already cumbersome Section 214 process. Further, prescribing additional rules on this topic is unnecessary when viewed from the pragmatic reality that video dialtone will be provided in the near term almost exclusively in markets already wired for cable.

IV. CONCLUSION

While the Commission is prudent to address the questions raised in the Third Further Notice, it must recognize that the time for full deployment of video dialtone, which will benefit countless consumers and create a new and vibrant industry, has arrived. USTA urges the Commission to continue the momentum of its recent reaffirmation of its video dialtone Rules by approving all pending video dialtone applications. The Commission should adhere to its long-stated willingness to permit carriers flexibility in designing video dialtone service. Further delays in the regulatory

process will mean that benefits of video dialtone will continue to be denied to the public.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

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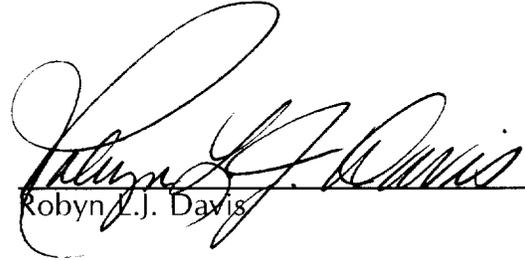
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January 17, 1995

CERTIFICATE OF SERVICE

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