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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE SECRETARY

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February 23, 1995

William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

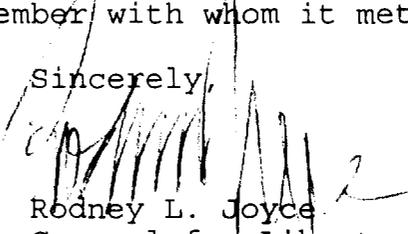
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Re: CC Dkt. No. 87-266 and RM-8221 (Ex Parte Notice)

Dear Mr. Caton:

Pursuant to the Commission's ex parte rules, this letter is to inform you that representatives of Liberty Cable Company met today with each Commission staff member identified below in order to discuss a petition filed by Liberty in this docket. The petition seeks reconsideration of that aspect of the Memorandum Opinion and Order on Reconsideration which bars "anchor programmers." Rather than barring anchor programmers, Liberty asked in its petition that the FCC allow individual VDT customers to lease up to 60 analog channels subject to a requirement that they make available the programming on these channels to any other VDT customer who obtains a license from the copyright holder to provide that programming to subscribers. Liberty left a copy of the enclosure to this letter with each Commission staff member with whom it met.

Sincerely,

  
Rodney L. Joyce  
Counsel for Liberty  
Cable Company, Inc.

cc (w/enc.): Maureen O'Connell (Office of Commissioner Quello)  
John Nakahata (Office of Chairman Hundt)  
Jill Luckett (Office of Commissioner Chong)  
Mary McManus (Office of Commissioner Ness)  
Lisa Smith (Office of Commissioner Barrett)

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

# Time Warner Cable

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120 East 25th Street New York NY 10010



**TIME WARNER  
CABLE OF NEW YORK CITY**

Dear Resident,

You may have received information from Liberty Cable recently, but we would like you to know all the facts.

Time Warner Cable of New York City is authorized by the City of New York to offer a 25% Bulk Rate discount on your primary set. This offer is available to 100% of the residential units for Basic, Basic plus Standard and Premium Services in buildings numbering 15 dwelling units or more.

Our newly rebuilt state-of-the-art cable system provides 76 channels of service and improved reception. Our addressable converter provides the capabilities for automated ordering of our expanded pay-per-view line-up. Time Warner's commitment to evolve our cable systems into broadband communication highways is evident by many developments including Quantum, the world's first 150 channel cable system in Queens. Time Warner Cable has also formed a partnership with US West, Inc. to begin building Full Service Networks in Time Warner Cable systems throughout the country. Together, US West and Time Warner Cable recently began operating the world's first interactive network in our Orlando, Florida cable system. Design has already begun for a full service network in Manhattan and construction is slated to begin in the near future. This further reflects our industry leadership and commitment to the future. This dedication to the future will ultimately provide you with immediately accessible programming that covers an even larger field of choices with just the touch of a button.

Time Warner Cable of New York City and Paragon Cable Manhattan are the only cable television companies franchised by the City of New York to operate in Manhattan. Our customers, unlike Liberty's, receive the regulatory protection of City, State and Federal agencies.

Please take a moment to review the information enclosed in this package. If you have any questions, I can be reached at 598-7383, Monday - Friday between the hours of 9am to 5pm. Thank you for being our customer and we look forward to serving you for many years to come.

Sincerely,

Ed Olsen  
Accounts Manager  
Condominiums and Co-ops

## THE CABLE TV FACT SHEET

**Signal Reliability:** In Manhattan, underground transmission of video signals via fiber and coaxial cable is the optimum method to achieve superior reception and reliability. Microwave transmission, used by Liberty, has a long history of questionable reliability. Most cable operators abandoned this technology years ago. During storms in New York City, entire Liberty buildings have been without service for up to three days. During the World Trade Center explosion, Liberty customers and non-cable TV homes lost many broadcast signals for the day, while Time Warner Cable of New York City customers benefitted from our direct feeds from the networks and received all critical programming.

**Experience:** Time Warner has been in the cable business for more than 25 years and is the world's largest entertainment company, with its headquarters right here in Manhattan. With Liberty, you'll be doing business with a company owned by real estate landlords (the Milstein interests), who have virtually no experience in entertainment, programming or cable television. Crain's New York Business has noted that Liberty's chairman, Peter Price, "has no experience in cable. His record has been marked with less than stunning successes, including a bumpy tenure at the Post and The National, the sports daily newspaper that ceased publication in 1991 amid huge losses."

**Regulatory Controls:** In the same Crain's article, former Commissioner William F. Squadron, of the New York City Department of Telecommunications and Energy (DTE) warned consumers to be cautious with systems such as Liberty, stating: "There is less protection for the consumer since they're unregulated." Time Warner is a cable television company franchised by the City of New York. As such, it is subject to careful oversight and regulations by the City, DTE, the State Commission on Cable Television, and the Federal Communications Commission (FCC). Those agencies regulate virtually every aspect of Time Warner Cable's operation. Liberty, an unfranchised operator, has an FCC microwave license, but is not subject to the same stringent regulations by the FCC and is not regulated by the City or State regulatory agencies.

**Programming:** Our line-up offers 65 channels of Basic and Standard service, compared to Liberty's 54-channel service. We carry many program services currently not offered by Liberty, including New York 1 News, New York City's only all-news television channel featuring local news, sports, lifestyle information and weather reports. In addition, we offer three hit movie channels on Time Warner Home Theatre pay-per-view.

**Converter Boxes:** While Liberty claims that no converter box is needed, those customers who wish to subscribe to HBO or other premium services must have a converter box. Liberty charges \$10 monthly for every additional converter box. Time Warner Cable requires converter boxes in order to receive all scrambled services. Time Warner Cable charges either \$3.70 per month for each additional outlet which includes Basic and Standard Service with a converter and remote control, or \$9.20 per month with premium services.

**Contract Term and Price:** Liberty typically seeks 5 or 10 year contracts and requires the building owners to subscribe to cable service for all building residents. Time Warner Cable traditionally charges the individual resident who wants cable service and permits them to cancel at any time. Additionally, savings are available through Time Warner Cable with bulk rates to buildings with 15 or more units, and can be cancelled at any time with 90 days prior written notice. Our bulk rates are very competitive with Liberty's, particularly in view of the greater number of services that we offer.



## SOME ADDITIONAL CABLE TV FACTS

Time Warner Cable provides 24-hour customer service. We guarantee that calls for service repairs before 4pm, will result in appointments by the next business day, or, you will receive a month of cable free. Also, if we don't arrive for an appointment on time, you will receive a month of cable free. A free month of cable applies to the previous month's cable service, including programming, equipment and pay-per-view charges only.

Time Warner Cable of New York City is currently offering a 25% bulk rate discount on your primary set. This offer is available to 100% of the residential units for Basic, Basic plus Standard and Premium Services. Your board of directors can select one of three discounted service tiers for the entire building regarding the bulk rate contract. The following options are available:

Basic Service (without converter & remote)	= \$ 8.62 per month*
Basic Service (with equipment)	= \$11.39 per month*
Basic plus Standard Service (incl. equip.)	= \$19.97 per month*

\*Includes FCC Regulatory Fee of \$.04

Watch N' Record converters with remotes, are now available for either \$5.59 per month retail (only \$1.89 more per month than our Jerrold Impulse converter with remote), or \$4.19 per month in our bulk agreement (\$1.40 more per month). This state-of-the-art tuner addressable converter, with on-screen display, has a built-in A/B switch, a clock, eight timers, and a smart remote that can turn your television on and off. The Watch N' Record converter is slightly larger than the Jerrold Impulse, but more importantly, allows you to tape any channel while watching any other channel at the same time (scrambled or unscrambled). This converter eliminates the need of connecting two converters with an A/B switch which can be cumbersome and more costly.

When additional outlets are installed without converters there is no monthly charge. However, you will only be able to receive our Basic 35 channels (unscrambled) on a cable ready television. Non-cable ready televisions will only receive channels 2-13. Please note, without a converter, approximately 14 Basic channels have different channel positions.

Time Warner Cable's Full Service Network, the world's first interactive network in our Orlando, Florida cable system, will offer movies on demand, games, home shopping, video phone and much more. Construction of a Full Service Network in Manhattan will begin in the near future.

The one-year Video Dialtone trial currently being conducted by NYNEX in 3 Manhattan properties is not a joint venture between Liberty Cable and NYNEX. NYNEX has been authorized by the Federal Communications Commission to conduct this trial and only they are responsible for any new technology that may be tested during the trial. Per NYNEX, Time Warner Cable and Liberty Cable have the same roles in the NYNEX test - as program providers.



TIME WARNER  
CABLE OF NEW YORK CITY

## A Bulk Rate Discount For Your Building

Time Warner Cable of New York City is authorized by the City of New York to offer bulk rate discounts to the owners of apartment buildings with 15 or more dwelling units.

This means you can enjoy a 25% discount each month on your primary set, with your choice of the following service packages:

(1) **Basic Service** - current retail price \$15.15\* per month; total discounted bulk rate \$11.36\*, a monthly savings of \$3.79 per unit. This service offers 35 channels and includes a converter and a remote control.

(2) **Basic plus Standard Service** - current retail price \$26.57\* per month; total discounted bulk rate \$19.93\*, a monthly savings of \$6.64 per unit. This service includes all the Basic channels plus 30 additional channels such as SPORTSCHANNEL, SCI-FI CHANNEL, BRAVO, CNN, A&E, TNT, AMC, etc. This service also includes a converter and a remote control.

\* An FCC regulatory fee of \$.04 per unit, per month, also applies.

In order to receive the 25% discount, 100% of the residential units must select one of the two aforementioned service packages. This way, every resident can begin to enjoy the savings. Of course, each person can also purchase additional outlets, premium channels and pay-per-view on an individual basis, if they so desire.

If you are interested in pursuing a bulk discount for your building, please contact Ed Olsen, Accounts Manager for Co-ops and Condominiums at 598-7383, Monday - Friday between the hours of 9am to 5pm.

We look forward to serving you for many years to come.



TIME WARNER  
CABLE OF NEW YORK CITY

# RATE COMPARISON



	Time Warner Retail Rates	Time Warner Bulk Rates
<b>Time Warner Cable of New York City Monthly Rates</b>		
• Basic Service	\$11.45	\$ 8.59
• Converter & Remote (conv. = \$3.45; remote = \$.25)	\$ 3.70	\$ 2.77
• Basic Service (includes converter & remote)	\$15.15	\$11.36
• Standard Service (includes Basic, conv. & remote)	\$26.57	\$19.93
• FCC Regulatory Fee (applicable to all units)	\$ .04	N.A.
• Additional Outlet (Basic and/or Standard Service, w/conv. & remote)	\$ 3.70	N.A.
• Additional Outlet (Basic and/or Standard Service, w/conv., remote & duplication of premium(s) from the primary set.)	\$ 9.20	\$ 7.83
<b>Premium Services - HBO, Showtime The Movie Channel, Cinemax and Disney</b>		
• 1st Premium Service	\$12.95	\$ 9.71
• 2 Premium Services	\$21.95	\$16.46
• 3 Premium Services	\$29.95	\$22.46
• Each Additional Premium	\$ 7.00	\$ 5.25
<b>Additional Premium Services:</b>		
• Playboy TV	\$ 9.00	\$ 6.75
• TV-Japan	\$14.95	\$11.21
Basic Service must be purchased in order to receive Standard Service, Premium Services and Pay-Per-View.		
		<b>Liberty Cable Bulk Rates</b>
<b>Liberty Cable Monthly Rates</b>		
• Basic Service		\$15.00*
• Additional Outlet (w/premiums, pay-per-view & non-cable ready TV sets)		\$10.00
• Additional Outlet (without above)		No Charge
• 1st Premium Service		\$12.00
• 2 Premium Services		\$20.00
• 3 Premium Services		\$24.00
• Each Additional Premium		\$ 8.00
<b>Additional Premium Services:</b>		
• Playboy TV		\$12.00
• TV-Japan		\$29.95
*Includes SportsChannel/Newsport		

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RATE COMPARISONS FOR TYPICAL LEVELS OF SERVICE

	TIME WARNER <sup>2</sup> <u>BULK RATE</u>	LIBERTY <u>BULK RATE</u>	<u>VARIANCE</u>
1 TV (Basic & Standard Service) <sup>3</sup>	\$ 19.97	\$ 15.00 <sup>4</sup>	\$ 4.97
2 TVS	23.67	15.00	8.67
1 TV + 1 PREMIUM	32.92	27.00	5.92
1 TV + 2 PREMIUMS	41.92	35.00	6.92
2 TVS + 1 PREMIUM	42.12	37.00 <sup>5</sup>	5.12
2 TVS + 2 PREMIUMS	51.12	45.00	6.12
3 TVS + 1 PREMIUM	51.32	47.00	4.32

1 Approximately 40 - 50% of our customers subscribe to at least two cable outlets and have at least one or more premiums.

2 Monthly Bulk Rate for Basic plus Standard Service with converter and remote control at 25% discount. Additional outlets, premium services and pay-per-view are not eligible for bulk rate discounts.

3 Time Warner Cable's Basic plus Standard Service includes 65 channels while Liberty's Basic Service has 54 channels.

4 Includes SportsChannel/Newsport

5 Liberty additional outlets are \$10.00 each with converter and remote control (converter is required for premium services, pay-per-view and non-cable ready TV sets).

# CHANNEL COMPARISON

## Time Warner Cable of New York City

## Liberty

NY1 News	---
Crosswalks - Municipal Access	---
CUNY TV	---
Faith & Values Channel	---
Galevisión	---
Home Shopping Club 2	---
Hot Choice	---
Mind Extension University	---
Public Access (1)	---
Public Access (2)	---
Public Access (3)	---
Public Access (4)	---
The Box	---
Time Warner Home Theatre (Pay-Per-View 1)	---
Time Warner Home Theatre (Pay-Per-View 2)	---
Time Warner Home Theatre (Pay-Per-View 3)	---
WLIG	---
WNUN	---
AMC	AMC
A&E	A&E
America's Talking	America's Talking
BET	BET
---	Bloomberg Direct
Bravo	Bravo
Cartoon Network	Cartoon Network
Cinemax	Cinemax
CNBC	CNBC
CNN	CNN
Court TV	Court TV
Comedy Central	Comedy Central
C-SPAN 1 & 2	C-SPAN 1 & 2
Discovery	Discovery
Disney	Disney
ESPN	ESPN
ESPN 2	ESPN 2
E!	E!
The Family Channel	The Family Channel
HBO	HBO
Headline News	Headline News
Home Shopping Club	Home Shopping Club
The International Channel	The International Channel
---	KTLA
The Learning Channel	The Learning Channel
Lifetime	Lifetime
MSG 1 & 2	MSG 1 & 2
MTV	MTV
The Nashville Network	The Nashville Network
---	Newsport
Nickelodeon/Nick at Nite	Nickelodeon/Nick at Nite
Playboy TV/PPV	Playboy TV
Pay-Per-View Preview	Pay-Per-View Preview
Provue Channel	Provue Channel
QVC	QVC
Sci-Fi Channel	Sci-Fi Channel
Showtime	Showtime
Spike (Pay-Per-View)	Spike (Pay-Per-View)
SportsChannel	SportsChannel
TBS	TBS
The Movie Channel	The Movie Channel
TNT	TNT
---	Turner Classic Movies
TV Food Network	TV Food Network
TV-Japan	TV-Japan
---	UNTV
USA	USA
VH-1	VH-1
The Weather Channel	The Weather Channel
---	Viewer's Choice PPV -1 & 2
WCBS	WCBS
WNBC	WNBC
WNYW	WNYW
WABC	WABC
WOR	WOR
WPIX	WPIX
WNET	WNET
WLIW	WLIW
WNYE	WNYE
WNYC	WNYC
WXTV	WXTV
WNJU	WNJU
---	WGN
---	WSBK



# SERVICE TIERS



## BASIC SERVICE (UNCRANFLE)

- |                   |                               |                           |                           |
|-------------------|-------------------------------|---------------------------|---------------------------|
| 1. NY1 NEWS       | 21. WLJW                      | 40. PREVUE CHANNEL        | 60. PUBLIC ACCESS         |
| 2. WCBS           | 22. TBS SUPERSTATION          | 41. WXTV                  | 71. CROSSWALKS            |
| 3. WNYC           | 23. WNYE/MEU                  | 47. WNJU                  | 72. CROSSWALKS            |
| 4. WNBC           | 24. HOME SHOPPING CLUB        | 50. WNUN                  | 73. CROSSWALKS            |
| 6. WNYW           | 27. MIND EXTENSION UNIVERSITY | 53. WLIG                  | 74. CROSSWALKS            |
| 7. WABC           | 26. PUBLIC ACCESS             | 57. QVC                   | 75. CUNY-TV ON CROSSWALKS |
| 9. WWOR           | 28. VARIED PROGRAMMING        | 64. C-SPAN 2              | 76. NY1 NEWS              |
| 11. WPIX          | 29. C-SPAN                    | 65. INTERNATIONAL CHANNEL |                           |
| 13. WNET          |                               | 68. HOME SHOPPING CLUB 2  |                           |
| 16. PUBLIC ACCESS |                               |                           |                           |
| 17. PUBLIC ACCESS |                               |                           |                           |

## STANDARD SERVICE (UNCRANFLE)

- |                             |                         |                                 |                            |
|-----------------------------|-------------------------|---------------------------------|----------------------------|
| 6. NICKELODEON/NICK AT NITE | 20. MTV                 | 40. MSG II                      | 51. COURT TV               |
| 8. ESPN                     | 23. USA NETWORK         | 42. BET                         | 52. THE LEARNING CHANNEL   |
| 10. CNN                     | 24. SPORTSCHANNEL       | 43. THE NASHVILLE NETWORK       | 53. GALAVISION             |
| 12. LIFETIME                | 27. MSG                 | 44. E! ENTERTAINMENT TELEVISION | 54. AMERICA'S TALKING      |
| 14. A&E                     | 30. THE FAMILY CHANNEL  | 48. COMEDY CENTRAL              | 56. SCI-FI CHANNEL         |
| 15. CNBC                    | 31. TNT                 | 46. AMC                         | 66. THE BOX                |
| 18. THE DISCOVERY CHANNEL   | 32. HEADLINE NEWS       | 48. ESPN 2                      | 67. CARTOON NETWORK        |
| 19. VH-1                    | 34. THE WEATHER CHANNEL | 50. TV FOOD NETWORK             | 70. FAITH & VALUES CHANNEL |
|                             | 37. BRAVO               |                                 |                            |

## PREMIUM SERVICES (UNCRANFLE)

- |             |                        |                       |              |
|-------------|------------------------|-----------------------|--------------|
| 28. HBO     | 33. THE DISNEY CHANNEL | 49. THE MOVIE CHANNEL | 63. TV JAPAN |
| 29. CINEMAX | 39. SHOWTIME           | 62. PLAYBOY TV        |              |

## PAY-PER-VIEW CHANNELS (UNCRANFLE)

- |                              |                |
|------------------------------|----------------|
| 58. TIME WARNER HOME THEATRE | 61. HOT CHOICE |
| 59. TIME WARNER HOME THEATRE | 62. PLAYBOY TV |
| 60. TIME WARNER HOME THEATRE | 63. SPICE      |

# Multichannel News

*Reprinted from Multichannel News*

## **Liberty Cable Faces New York State Action**

**NEW YORK** --Upstart competitor Liberty Cable faces action from the New York State Cable Commission for allegedly operating as a cable system without a franchise.

Time Warner's New York cable group had complained to the commission that Liberty, an aggressive wireless SMATV operator, was using a single receiver to serve several condominium buildings on Manhattan's ritzy Upper East Side, linking them with coaxial cable. Wireless and SMATV operators that do not physically cross public rights-of-way are not required to secure a franchise from the city. But generally, stringing a piece of cable between two buildings is considered a franchise.

That's how the commission sees it and has issued a "show cause" order asking

Liberty to demonstrate why its wiring scheme does not constitute a cable system. Commission staffers said they clearly observed Liberty's coax links crossing alleyways.

Liberty president Peter Price said that traditionally the city of New York has objected only if the wires crossed city streets, not alleys.

Some the buildings in question are adjacent to each other and Liberty simply bored through a common wall.

"Our position is, well, if we have to we'll just disconnect the six buildings and put in receivers," Price said. He added that it would cost around \$10,000 per building, Price said, and the expense could force Liberty to stop serving some smaller condo

buildings with just 20 or so units.

Compared to Time Warner's giant operation, Liberty is tiny. The company serves around 15,000 subscribers compared to the 450,000 served by Time Warner's Manhattan operation (not including 550,000 in other New York City boroughs).

Liberty is really a SMATV operator delivering signals to buildings via microwave, instead of satellite. But the company has proven successful in skimming the cream off Time Warner's subscriber base, concentrating on condo buildings in Manhattan's affluent sections. The company seeks five- to ten-year contracts on the condition that the condo board guarantee that every unit in the building subscribes. **-MCH**

# DAILY NEWS

Reprinted from The Daily News

## Dishes make (micro)waves

By SALVATORE ARENA

Daily News Staff Writer

Millionaire developer Harry Macklowe wants the television microwave dishes removed from his luxury East Side apartment building.

Macklowe, who agreed to allow the microwave dishes, changed his mind after his wife said an electromagnetic field is permeating their 38th-floor penthouse.

But Liberty Cable Co., which owns the equipment, is fighting to keep its antennas on Macklowe's River Tower complex at 420 E. 54th St. The company said it has a 10-year lease that pays Macklowe \$31,500 a year.

"There are more microwaves coming out of his microwave oven than out of our dishes," said Peter Price, whose company has about 15,000 subscribers in 100 Manhattan buildings.

The dishes beam television service to the couple and their wealthy tenants, as well as resi-

dents of a building on nearby Sutton Place South.

Neither Macklowe nor his attorney returned telephone calls seeking comment.

But according to court records the real-estate magnate suffered a legal setback last week when Liberty won a temporary injunction barring him from removing the antennas or ending the contract.

In an affidavit, Price said Macklowe called him expressing concern about the equipment more than a year after they signed the lease agreement.

"He stated that his wife believed that such microwave antennas caused a health hazard," said Price. "I told Macklowe that, as he already knew, Liberty had scientific evidence that there was no health hazard as a result of our microwave antennas."

Price said Macklowe's own consultant had reached the same conclusion before the contract was signed.

# The New York Times

Reprinted from The New York Times

## Television

### *New TV Outlet Wearily Takes A Starring Role*

By Clifford J. Levy

The storm that has pummeled the New York metropolitan region has given New York 1 News, the nascent 24-hour cable station, its first chance to play a role similar to that of CNN during the Persian Gulf War - albeit on a local scale.

In the station's chaotic newsroom at 460 West 42d Street in Manhattan, the mission was clear: churn the information. Give viewers updates about the weather, the traffic and the subways so they can slog their way through the city. Then update them again.

"It's certainly our first big long-running story," Paul Sagan, vice president of news and programming at the station, said as he took a brief respite from overseeing his corps of mostly young journalists.

When the first gusts began whipping through the area early Friday morning, the station switched to almost continuous coverage of the storm. By 8 A.M., Adele Sammarco was in Sea Gate, Brooklyn, broadcasting live interviews with residents who faced torrential flooding.

#### Conduit for Information

More than a dozen other reporters took to the streets to speak to frustrated commuters and corral information from harried officials. Many communicated with the station's anchors by phone. Three crews equipped with microwave transmitters beamed live reports.

Some reporters, producers and assignment editors worked all day Friday and then through the night without a break. Some staff members said yesterday that they were exhausted, but they added that they were drawing on their last bit of energy because they knew they were covering a once-in-a-decade story.

Mr. Sagan said he believes many officials were depending on New York 1 News to track the course and effects of the storm because they were calling the station to correct outdated information that it had broadcast. New York 1 News, which went on air in September, reaches about 885,000 homes and offices in New York City, he said.

Other stations in New York City began broadcasting continuous coverage of the storm's impact early Friday afternoon. Most returned to their regular programming on Friday night, while New York 1 News continued with storm coverage through the night.

"It's a challenge because the impact of the storm is so widespread," said Bruno Cohen, news director at WNBC-TV. "The logistics of television news reporting in New York City are daunting on even nice days."