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August 17, 1995

Office of the Secretary
Reference: Notice of Inquiry in CS Docket No. 95-61
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Re: Program Access

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Dear Sir or Madam,

Just before passage of H.R. 1155, the Viacom Networks (MTV, Nickelodeon & VH1), HBO Networks and Showtime Networks worked out a deal with Sen. Pressler and other representatives to avoid any measures aimed at forcing programmers to deal equally with small cable television system operators as well as large cable operators.

The deal I'm writing of is the one which forces the vertically integrated programmers to offer the National Cable Television Co-Operative (Co-Op) the same rates as the programmers offer the largest cable companies. This would supposedly allow small cable operators to take advantage of bulk discounts, thereby reducing cost to encourage competitive pricing to the subscriber.

Initially this sounded like a great opportunity. So, we scrimped together the membership fee and joined the Co-Op. To do this meant that I would have to delay a couple of my paychecks, but I thought the sacrifice was worth the future savings on programming costs.

For us though, we have received a raw deal. You see, we would like to add only Nickelodeon to our channel line-up. Under the current Co-Op guidelines with the programmers, I cannot add just Nickelodeon to our line-up. The current Co-Op pricing agreement requires a 235% penetration minimum for all three Viacom Networks (MTV, VH1, & Nickelodeon). If we do not add all three networks we are not allowed to participate in the Co-Op program.

Our cable system is in a rural area. When we first proposed building the system, the local government verbally requested we not put programming like MTV on the system. They felt the videos were provocative and did not meet the community's family standards.

We agreed with the local government. Today, we would like to add Nickelodeon because of its wholesome programming. Unfortunately, to do this we will have to pay a price for just Nickelodeon which is almost equal to the price for all three networks from the Co-Op. One reason for this is the penetration "discounts" (I call them penalties).

These discount/penalties force cable operators to put new channels on basic which inflates the cost of basic (giving cable system operators a bad reputation), and limits the choices subscribers have.

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The programmers and Co-Op have free reign over the small cable operator. In all of my recent dealings with program providers, it seems as though they really don't care about the cost to the subscriber because they (the programmers) know that the consumer only blames the cable company. The consumer pays only a cable bill, not a programming fee.

Small cable companies are the messengers regarding the telecommunication future, and the regulations which allow unfair program access are shooting the messengers.

To level the playing field, programmers must be required to provide agreements with a most favored nations clause. That clause would state that if the programmer provides its' programming to a competing programming provider, the charge for that programming should be equal to all regardless of size or penetration levels.

We small cable business operators need to get our programming at the same per subscriber charge as any other company regardless of size or subscriber penetration. This will permit us to charge rates which are in line with or lower than our competition. This will insure our subscribers pay the lowest possible rates while at the same time allow our company to survive and compete with companies of greater size.

Thank you for your attention to this matter.

Sincerely,

George Pancner
President