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

APR 26 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Implementation of Section 505 of)	CS Docket No. 96-40
the Telecommunications Act of 1996)	
)	
Sexually Explicit Adult Video)	DOCKET FILE COPY ORIGINAL
Service Programming)	

COMMENTS OF BELL ATLANTIC

The Bell Atlantic Telephone Companies¹ and Bell Atlantic Video Services Company ("Bell Atlantic") submit these comments in response to the Notice of Proposed Rulemaking,² concerning scrambling of adult programming. The Commission adopts a rule incorporating Section 641(a) of the Telecommunications Act of 1996³ ("1996 Act") and then asks, among other things, whether there are differences in technology between multichannel video programming distributors ("MVPDs") that would require different rules.⁴

The Act and the Commission's rule adopted with the Notice are fully adequate to deal with different technologies that may be used by different MVPDs.⁵ Both require an MVPD that

¹ The Bell Atlantic Telephone Companies are Bell Atlantic - Delaware, Inc., Bell Atlantic - Maryland, Inc., Bell Atlantic - New Jersey, Inc., Bell Atlantic - Pennsylvania, Inc., Bell Atlantic - Virginia, Inc., Bell Atlantic - West Virginia, Inc., Bell Atlantic-Washington, D.C., Inc.

² *Implementation of Section 505 of the Telecommunications Act of 1996; Scrambling of Sexually Explicit Adult Video Service Programming*, CS Docket No. 96-40, Order and Notice of Proposed Rulemaking (rel. Mar. 5, 1996) ("Notice").

³ Notice ¶2.

⁴ Notice ¶10.

⁵ Bell Atlantic notes that section 641 of the Act and the Commission's rule apply to MVPDs, and not to open video system ("OVS") operators. §633(c)(1)(C). The Commission should make clear, however, that it is not unlawful discrimination for an OVS operator to terminate service to any video program provider that fails to comply with the Act and Commission's rule

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provides “sexually explicit adult programming or other programming that is indecent on any channel of its service primarily dedicated to sexually-oriented programming” to “fully scramble or otherwise fully block the video and audio portion of such channel so that one not a subscriber to such channel or programming does not receive it.”⁶

The Commission should not attempt to write technology- or architecture-specific rules, and should not prescribe how MVPDs using particular technologies or architectures must comply with the Act’s requirement that “one not a subscriber to such channel or programming does not receive it.”⁷ Such technological micro-management could stifle technological development. Instead, the Commission should determine that, as long as “one not a subscriber to such channel or programming does not receive it,” the MVPD has complied with the requirement to “fully scramble or otherwise fully block.”

⁶ 1996 Act, §641(a); Notice, ¶ 2.

⁷ 1996 Act, §641(a).

Conclusion

The Act and the Commission's rule adopted with the Notice are appropriate to deal with the variety of technologies that MVPDs may use to deliver programming, and no further rules are needed.

Respectfully Submitted,



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