

G R Evans
Vice President
Federal Regulatory Affairs

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NYNEX

May 8, 1996

Ex Parte

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

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

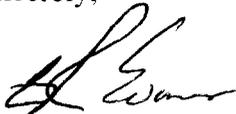
RE: CS Docket 96-46

Dear Mr. Caton:

Today, Mr. B. Pfeiffer, Mr. D. Rowe, Mr. G. Udwin and I, representing NYNEX, met with Ms. M. Jones, Mr. J. Logan, Mr. L. Walke, Mr. R. Chessen, Mr. G. Laden and Ms. M. Icove of the Cable Bureau. The purpose of the meeting was to discuss NYNEX's positions in the Open Video Systems proceeding, CS Docket 96 - 46. The attached material was used in the discussion.

The NYNEX representatives described how NYNEX's OVS would be available for affiliate and non-affiliate programmers and packagers to bring their services directly to end user customers. Also, NYNEX proposed that the FCC focus on certification and an explicit input process, coupled with an output test, in lieu of detailed "Title II" regulation as the determinant of non-discrimination and fair access. Finally, the FCC was urged to take a "lite regulation" approach in considering rules for OVS.

Sincerely,



Attachment

cc: Mr. R. Chessen
Ms. M. Jones
Mr. G. Laden
Mr. J. Logan
Ms. M. Icove
Mr. L. Walke

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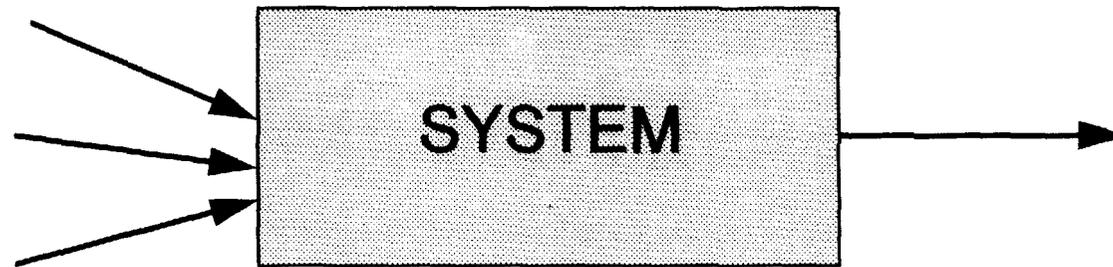
Open Video Systems

Letting Competitive Market Forces Work

Open Video Systems

- The LECs Want to Use OVS to Make Money by Entering the MVPD Market.
- OVSs Will Bring End User Video Services Price Competition vis-a-vis Incumbent Cable Cos.
- OVSs Will Bring Opportunities for Independent Programmers and Packagers.
- Congress Called for Market Forces and Reduced Regulation.

Open Video Systems



- Principles
- Process Inputs
- Process Outputs
- Resolutions

Open Video Systems -- Principles

- “Vigorously competitive markets, not regulation are the best way to serve consumer’s interests.” -- FCC NPRM Par. 2
- Meeting Congressional Intent:
 - Flexible market Entry
 - Enhanced Competition
 - Streamlined Regulation
 - Diversity of Programming Choices
 - Investment in infrastructure and technology
 - Increased Consumer Choice -- Conference Report at 172, 177-78; FCC NPRM Par. 4
- “Common Carriers that deploy [OVSs] will be ‘new’ entrants in established video programming markets and deserve lighter regulatory burdens to level the playing field.” -- FCC NPRM Par. 6

Open Video Systems -- Input Processes

- **Public Notice** -- Announcement of OVS in Trade Press & Newspapers
- **Solicitation** -- Open Enrollment Period for Programmers --
 - say 3 Months
 - Re-opener (if capacity limited) every 5 years
- **Published Technical Interfaces** --
 - Specifications for STBs & Navigators & *Head end connections.*
- **Published, non-discriminatory qualifications for**
 - Programmers' Participation.
 - Rate Card for Qualified Participants.
- **Compliance with FCC Cost Allocation, PEG, & other Rules.**

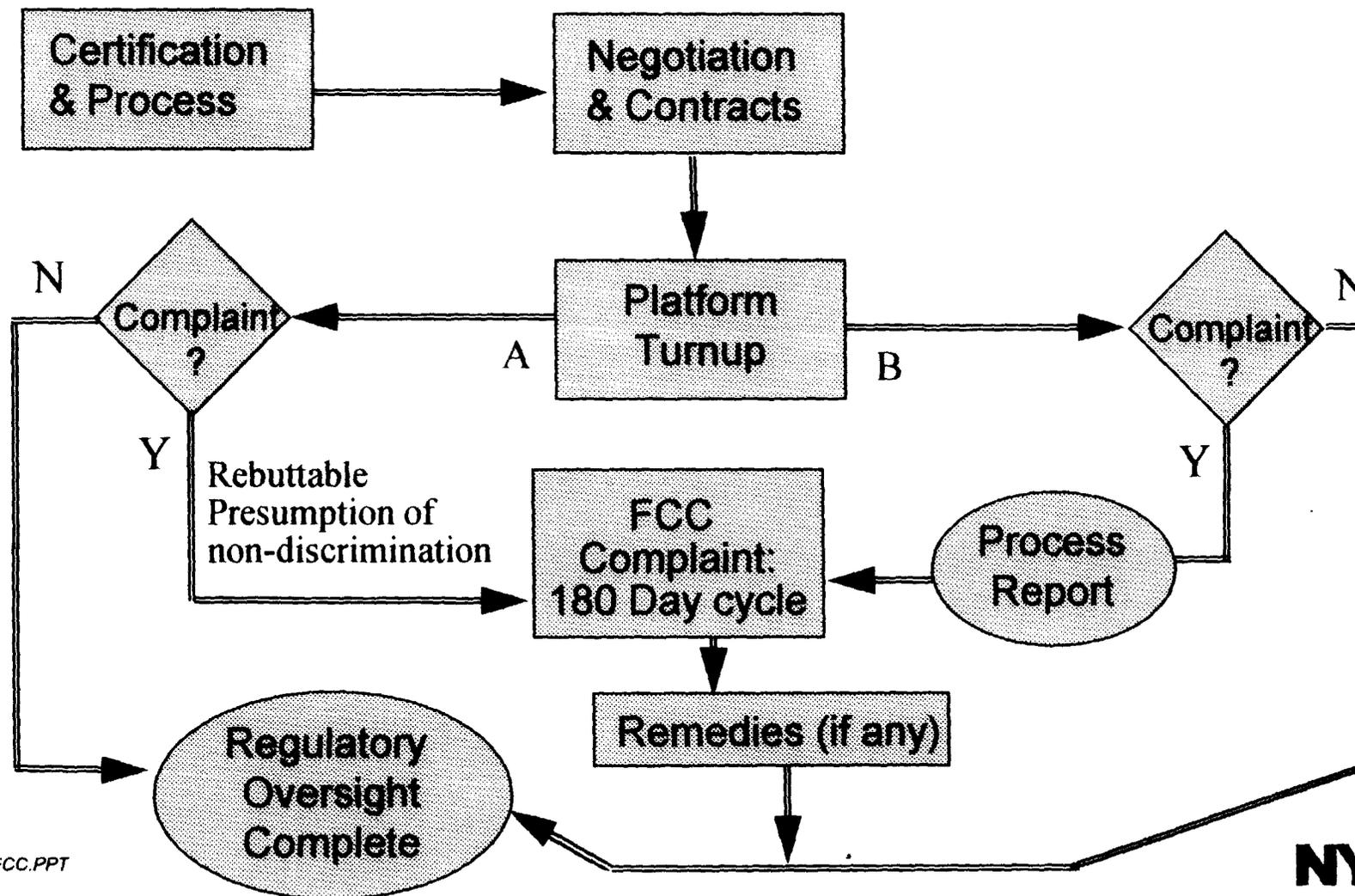
Open Video Systems -- Output Test

o Possible Outcomes --

A - OVS has Unaffiliated Programmer/Packager who markets to End Users.

B - OVS has only affiliate programmer's packages available.

Open Video Systems -- Process Flow



Open Video System -- Complaint Process

- Upon Complaint to the FCC
 - » Remedies after the fact and FCC ruling only.
 - » Burden of Proof is on the complainant.
- If either A exist as outcome, then there is a rebuttable presumption of a non -discriminatory platform.
- If Outcome “B”, then OVS Operator is required to provide FCC with a “Process Report” detailing its Notice and Enrollment Process if Complaints are filed.
- FCC Deals with any resulting Complaints using Sec. 653 (a) (2) to provide programmer remedies.

Open Video System -- Resolution

o Process Report to FCC --

- » Triggered by Complaint & Similar to “Trial Report”
- » Expository Material from Input Process:
 - Public Notice; Solicitation; Published Interface Information (Technical & Commercial).
- » Details of Programmers Contacted & Negotiations Pursued.
- » Details of Carriage offered.
- » Details of Compliance with Cost Allocation, PEG, etc.