



whole and Century is not punished for its unlawful behavior. In order to be effective, the program access rules must have teeth. Thus, the Commission should amend its rules to allow parties aggrieved by violations of the program access rules to obtain legal damages.

Second, OpTel agrees with the assessment of the Residential Communications Network, Inc. ("RCN") that the Commission should "act promptly" when presented with an allegation of a programming access violation.<sup>5</sup> "If a competing MVPD is unable to provide consumers with popular programming, especially exclusive sports or other local programming, ... the incumbent cable operators will continue to monopolize the video marketplace."<sup>6</sup> For that reason, OpTel urges the Commission to expedite review of programming access complaints.

Finally, OpTel joins with BellSouth Corporation in cautioning the Commission to recognize the limited scope of its program access rules and to remain vigilant against all forms of unfair or anticompetitive behavior by incumbent monopoly franchised cable companies.<sup>7</sup> As BellSouth points out, the program access rules do not explicitly cover exclusive agreements between large franchised cable operators and non-cable affiliated programmers.<sup>8</sup> The Commission must make every effort within its authority to ensure that cable operators are not permitted to abuse this loophole in the rules.

Respectfully submitted,

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<sup>5</sup> See Comments of RCN at 6.

<sup>6</sup> Id.

<sup>7</sup> Comments of BellSouth at 4.

<sup>8</sup> Id.