

EX PARTE OR LATE FILED

**IRWIN, CAMPBELL & TANNENWALD, P.C.**

ATTORNEYS AT LAW  
1730 RHODE ISLAND AVENUE, N.W.  
SUITE 200  
WASHINGTON, D.C. 20036-3101  
(202) 728-0400  
FAX (202) 728-0354



**RECEIVED**

**NOV - 5 1996**

PETER TANNENWALD  
(202) 728-0401 Ext. 105

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

November 5, 1996

DOCKET FILE COPY ORIGINAL

William F. Caton, Acting Secretary  
Federal Communications Commission  
Washington, DC 20554

**Re: Report of Ex Parte Communication**

**MM Docket No. 92-166 and CS Docket No. 96-60**

Dear Mr. Caton:

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, I am submitting copies of two letters that have been mailed to the Chairman concerning leased cable access, the subject matter of MM Docket No. 92-166 and CS Docket No. 96-60. Two copies of this letter are being submitted for each docket file.

Very truly yours,

Peter Tannenwald

cc: Donna C. Gregg, Esq., Counsel for Lifetime Television  
Meredith J. Jones, Chief, Cable Services Bureau  
Mr. William Johnson  
JoAnn Lucanik, Esq.  
Julia Buchanan, Esq.  
Mr. Edward Gallick  
Lynn Crakes, Esq.  
Jackie Chorney, Esq.  
James R. Coltharp, Esq.  
Suzanne K. Toller, Esq.  
Anita L. Wallgren, Esq.  
William Richardson, Esq., Counsel for ValueVision  
Mr. Sherwin Grossman

 COMMUNITY  
BROADCASTERS  
ASSOCIATION

RECEIVED

NOV - 5 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Sherwin Crossman  
*President*  
Sherjan Broadcasting Co, Inc.  
Miami, Florida

Warren L. Trumbly  
*Vice President*  
Polar Broadcasting  
Sacramento, California

Jud Colley  
*Treasurer*  
Beach-TV  
Panama City, Florida

Robert Raff  
*Secretary*  
Station KBTR  
Junction City, Kansas

*Directors:*  
Louis Jenkins  
Station W19AW  
Baton Rouge, Louisiana

John Riplinger  
South Central Communication Corp.  
Evansville, Indiana

Lawrence Rogow  
World Television  
Los Angeles, California

Peter Tannenwald  
*General Counsel*  
Irwin, Campbell & Tannenwald, P.C.  
Washington, D.C.

November 4, 1996

Honorable Reed Hundt, Chairman  
Mail Stop 0100  
Federal Communications Commission  
Washington, D.C. 20554

Dear Mr. Chairman:

On October 22, 1996, you addresses the Antitrust  
Conference for Corporate General Counsels and said:

It is vital that we all push towards ending the current  
regulatory monopoly model for local  
telecommunications. Every day I read or hear about  
some possible new service that would be 'on our  
doorstep' if the current bottleneck were removed...It is  
competition -- not monopoly -- that will replace  
narrowband bottlenecks with low-cost, high quality, and  
innovative broadband pipelines.

I know how excited you are about the advent of  
competition in local telephone service and how important you  
feel it is to compel incumbent local exchange carriers to resell  
their bottleneck last-mile loops on an unbundled basis and at a  
fair price that is intended to make it possible for competitors to  
operate. Why don't you feel the same way about the bottleneck  
created by a cable company when it disconnects an over-the-air  
antenna and locks up the input to a television receiver? That is  
no less a monopoly than the last-mile telephone drop top the  
home. The cable is the only video wire in the home, and no  
television program gets into the set except through that cable.

Congress mandated cable leased access in 1992 to make  
sure that someone other than the cable company can get into

**CBA** COMMUNITY BROADCASTERS ASSOCIATION

Sherwin Grossman  
President  
Sherjan Broadcasting Co, Inc.  
Miami, Florida

Warren L. Trumbly  
Vice President  
Polar Broadcasting  
Sacramento, California

Jud Colley  
Treasurer  
Beach-TV  
Panama City, Florida

Robert Raff  
Secretary  
Station KBTR  
Junction City, Kansas

Directors:  
Louis Jenkins  
Station W19AW  
Baton Rouge, Louisiana

John Riplinger  
South Central Communication Corp.  
Evansville, Indiana

Lawrence Rogow  
World Television  
Los Angeles, California

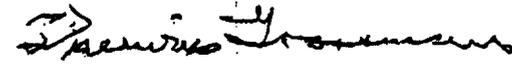
Peter Tannenwald  
General Counsel  
Irwin, Campbell & Tannenwald, P.C.  
Washington, D.C.

Page 2, Hundt

that TV set. Think of all the "possible new service" that could be brought into people's homes if leased access were available at a fair price that is intended to make it possible for competitors to operate? Low power TV stations all over the country are starving because they can't get on that monopoly wire at a fair price, and cable companies don't want to let them on the wire because they constitute competition and will not let them at a fair price until the Commission orders them to do so, as Congress intended.

There is no difference between telephone and cable, is there? In each case, a monopoly last-mile wire drops into the home, and new and innovative services are on the doorstep if you just require the owner of that wire to sell capacity on it at a fair and reasonable price. Why can't you get one as the other? The cable wire has a lot more capacity than a twisted pair telephone wire, so let's open it up -- now, not months from now!

Sincerely yours,

  
Sherwin Grossman  
President

cc: Meredith Jones, Chief, Cable Services Bureau  
Secretary, Rm 222, for MM Docket 92-166 and CS  
Docket 96-60

file: CABLEHUND



# COMMUNITY BROADCASTERS ASSOCIATION

Sherwin Grossman  
*President*  
Sherjan Broadcasting Co, Inc.  
Miami, Florida

Warren L. Trumbly  
*Vice President*  
Polar Broadcasting  
Sacramento, California

Jud Colley  
*Treasurer*  
Beach-TV  
Panama City, Florida

Robert Raff  
*Secretary*  
Station KBTR  
Junction City, Kansas

*Directors:*  
Louis Jenkins  
Station W19AW  
Baton Rouge, Louisiana

John Riplinger  
South Central Communication Corp.  
Evansville, Indiana

Lawrence Rogow  
World Television  
Los Angeles, California

Peter Tannenwald  
*General Counsel*  
Irwin, Campbell & Tannenwald, P.C.  
Washington, D.C.

November 4, 1996

Chairman Reed Hundt  
Mail Stop 0101  
Federal Communications Commission  
Washington, D.C. 20554

Dear Mr. Chairman:

I recently had occasion to review *ex parte* filings by Lifetime Television, made on October 17 and 28, 1996, concerning presentations made to decision-making personnel on the subject of leased access on cable television. The point of these presentations is that Lifetime has difficulty obtaining access systems because of preferences given by cable operators to vertically integrated program services. Lifetime has that one right -- the public interest and the desires of the audience take second place to self-economic interest when it comes to channel choices made by cable operators.

However, Lifetime goes on to say that the Commission should not take action that would result in "drastically reduced, bargain rates" for leased access, because that would simulate demand for leased access and make it more difficult for Lifetime to secure channels. Lifetime fell off the edge of the cliff on that one.

Since when is wealth the proper test for deciding who gets access to leased channels? Congress mandated that editorial control of certain channels be given to entities other than the cable operator and that the rates be reasonable, not that the channels be kept dear so that only the wealthy can afford them.

Low power television stations seeking leased access are not rich, and they do not have the national revenue base that Lifetime has. But they provide local service, which is a highly


**COMMUNITY  
BROADCASTERS  
ASSOCIATION**

Sherwin Grossman  
*President*  
Sherjan Broadcasting Co, Inc.  
Miami, Florida

Warren L. Trumbly  
*Vice President*  
Polar Broadcasting  
Sacramento, California

Jud Colley  
*Treasurer*  
Beach-TV  
Panama City, Florida

Robert Raff  
*Secretary*  
Station KBTR  
Junction City, Kansas

*Directors:*  
Louis Jenkins  
Station W19AW  
Baton Rouge, Louisiana

John Riplinger  
South Central Communication Corp.  
Evansville, Indiana

Lawrence Rogow  
World Television  
Los Angeles, California

Peter Tannenwald  
*General Counsel*  
Irwin, Campbell & Tannenwald, P.C.  
Washington, D.C.

Page 2, Hundt

values service in the public interest and is something that Lifetime does not provide. There are plenty of national programming services, but not enough local service. I do not mean in my way to denigrate the value of Lifetime's programming. The point is that their programming is not more valuable than locally-oriented LPTV programming and is not entitled to a de facto preference through artificially inflated leased access rates.

Sincerely,



Sherwin Grossman  
President

cc: Donna C. Gregg, Esq., Counsel for Lifetime Television  
Meredith J. Jones, Chief, Cable Services Bureau  
Mr. William Johnson  
JoAnn Lucanik, Esq.  
Julia Buchanan, Esq.  
Edward Gallick  
Lynn Crakes, Esq.  
Jackie Chorney, Esq.  
James R. Coltharp, Esq.  
Suzanne K. Toller, esq.  
Anita L. Wallgreen, Esq.

File: LIFETIME