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Washington, DC
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October 9, 1997

EX PARTE OR LATE FILED

BY HAND DELIVERY

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

RECEIVED

OCT - 9 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte Presentation, MM Docket No. 92-264

Dear Mr. Caton:

This letter provides notice that David Krone, Vice President of Government Relations, Tele-Communications, Inc., Philip L. Verveer of Willkie Farr & Gallagher, and the undersigned met with the following individuals of the Cable Services Bureau in connection with the above-captioned proceeding:

Meredith Jones, Chief
Bill Johnson, Deputy Chief
To-Quyen T. Truong, Senior Attorney Advisor
Edward C. Gallick, Senior Economist

The meeting focused on the difficulty of calculating the number of cable homes passed in connection with the national cable subscriber limit. To illustrate this point, TCI handed out the attached report. Please enter this report into the record in this proceeding.

Kindly direct any questions about this matter to the undersigned.

Thank you.

Sincerely,

Michael H. Hammer

Michael H. Hammer

Attachment

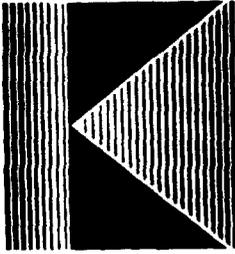
cc: Meredith Jones

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KAGAN MEDIA APPRAISALS INC.

126 CLOCK TOWER PLACE
CARMEL, CA 93923-8734
TEL: 408/624-1536
FAX: 408/624-3105

September 12, 1997

Mr. David Krone
Vice President, Government Relations
TCI-Communications, Inc.
1730 M Street NW, Suite 900
Washington, DC 20036

Tel: (202) 833-4120
Fax: (202) 833-4122

Dear Mr. Krone:

In accordance with your request, we have prepared the following report regarding total TV households in the U.S. in an effort to determine the number of facilities that should be added to Nielsen homes. In addition to traditional Nielsen homes, KMA analyzed other permanent residences, including nursing homes and health care facilities, prisons, oil rigs, mobile homes, college dormitories and hotel residences.

We are qualified to complete this assignment by virtue of our 28 years of experience in appraising communications properties. During that period, we have appraised over \$30 billion worth of media properties on contract assignment. In addition, many more billions of dollars worth of such properties have been valued through regular informal analyses in Paul Kagan Associates' *TV PROGRAM INVESTOR*, *CABLE NETWORK INVESTOR* and *VIDEO INVESTOR* newsletters.

We have based our analysis in part on our personal knowledge of the television and industry acquired over more than two decades.

Our analysis of these matters are detailed in the following report. It has been a pleasure to have been in service to you in this matter.

Sincerely,

KAGAN MEDIA APPRAISALS, INC.

Robin Flynn
Vice President

RF/JM/jht
Enclosures

SPECIAL REPORT

NIELSEN HOMES

PREPARED BY:

**KAGAN MEDIA APPRAISALS, INC.
126 CLOCK TOWER PLACE
CARMEL, CA 93923
(408) 624-1536**

SEPTEMBER 12, 1997

STATEMENT OF LIMITING CONDITIONS

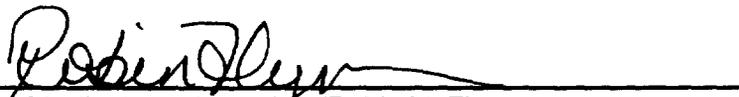
The opinions, conclusions and estimates presented in this report are based on our 28 years of experience in the communications and entertainment industries.

Possession of this report, or a copy thereof, does not carry with it the right of publication, nor may it be used for any purpose by any but the assignor without the previous written consent of KMA or the assignor and in any event only with proper qualifications.

Unless previous written arrangements have been made, neither Kagan Media Appraisals, Inc., nor any officer of Kagan Media Appraisals, Inc., is required to give testimony or attendance in court, pretrial proceedings or arbitration by reason of having made, or participated in this report.

The reader is advised that this Statement of Limiting Conditions and the accompanying introductory pages are an integral part of the final report, which contains the details of our analyses.

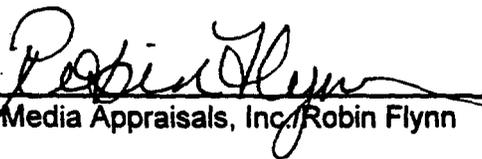
Signed:


Kagan Media Appraisals, Inc./Robin V. Flynn

RESTRICTIONS UPON DISCLOSURE AND USE

Neither all nor any part of the contents of this report, especially any conclusions as to value, or the identity of Kagan Media Appraisals, Inc., shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communications without the prior written consent and approval of the undersigned.

Signed:


Kagan Media Appraisals, Inc. Robin Flynn

QUALIFICATIONS OF THE APPRAISER

Paul F. Kagan is a financial analyst, consultant, investment manager and publisher of appraisal commentaries and analytical newsletters serving the communications and entertainment industries.

He has been engaged in this business since February 1969, when he formed Paul Kagan Associates, Inc., in Rockville Centre, New York. Offices were moved to Carmel, CA, in 1978. The Kagan group of companies includes Paul Kagan Associates, Inc. (publishing), Kagan Seminars Inc. (seminars), Kagan Capital Management, Inc. (investment management), Kagan Media Appraisals, Inc. (U.S. media consulting and valuations) and Kagan World Media, Inc. (research services, seminars, consulting and valuations round the world outside the U.S.).

Prior to forming PKA, Paul Kagan was a security analyst specializing in broadcasting and cable TV for E.F. Hutton & Co. in New York. He has contributed numerous articles on investments and finance to Barron's, the Dow Jones financial weekly. Earlier, he was employed in executive positions with CBS, Inc., and WOR-FM in New York.

Mr. Kagan is a fellow of the Financial Analysts Federation, a member of the New York Society of Security Analysts and an associate member of the Broadcast Financial Management Association.

PKA publishes over 40 newsletters on various communications and media disciplines, including MOTION PICTURE INVESTOR, TV PROGRAM INVESTOR AND INTERACTIVE MULTIMEDIA INVESTOR. Paul Kagan was the first to publish a continuing strategic investment analysis of the U.S. cable TV industry when he introduced CABLE TV INVESTOR in November 1969.

For more than 28 years, Mr. Kagan and his staff have appraised over \$28 billion worth of media properties on contract assignment. In addition, the Kagan Newsletters have analyzed public and private companies, on at least a quarterly basis over a number of years, totaling hundreds of billions of dollars.

QUALIFICATIONS OF THE APPRAISER (Continued)

Mr. Kagan is a graduate of Hunter College of the City University of New York, where he majored in communications. He also studied accounting at the New York University Graduate School of Business Administration.

Mr. Kagan and his analyst team have, for the past 25 years, conducted seminars for corporate executives and public officials on communications and media topics.

John Mansell, Jr., J.D., began his association with PKA in 1975. He is Senior Analyst for *WIRELESS CABLE INVESTOR*, the only continuing publication dedicated to the financial aspects of wireless cable for the past 24 years. Mr. Mansell is also Senior Analyst on *MEDIA SPORTS BUSINESS*, *PRIVATE CABLE INVESTOR*, *CABLE TV REGULATION*, and *CABLE TV LAW REPORTER*.

In addition, Mr. Mansell is organizer and moderator of several Kagan seminars, including Telecom Law Reform. Mr. Mansell holds a bachelor's degree in economics from the University of Michigan and a J.D. from the Thomas M. Cooley Law School.

SPECIAL REPORT

According to the U.S. Census, in 1990 there were 7.0 mil. persons residing outside of what we normally characterize as a TV household. U.S. Census data splits this population into two groups:

(1) Institutional Group Quarters and (2) Non-institutional Group Quarters. Census data, however, does not include all places where people reside, such as extended stay hotels, oil rigs, cruise ships and motorhome/recreational vehicles.

We have updated and supplemented the 1990 Census data with our own estimates of the out-of-home population and conclude that from 1990 to 1997 the institutional and non-institutional group quarters population has risen at least 16.3% to 7.79 mil. persons.

Our analysis is based upon data obtained from government agencies, private think tanks, industry associations, trade publications, the consumer press, analyst reports and our own estimates based on U.S. Census trends.

In addition to the census categories, there are also persons who reside in extended stay hotel rooms, on yachts and houseboats, recreational vehicles & mobile homes, and off-shore oil rigs. While more difficult to estimate, at any given time these non-traditional homes house hundreds of thousands of persons and perhaps millions.

Television viewing in most institutional settings and non-institutional group quarters is done mainly in common areas, sometimes in small groups similar to single family homes, but more often in large groups.

SPECIAL REPORT (Continued)

1990 U.S. CENSUS GROUP QUARTERS

| | 1980 Population | 1990 Population | 1980-1990 % Change | PKA 1997 Update | 1990-1997 % Change |
|------------------------------------------------|--------------------|--------------------|-----------------------|--------------------|-----------------------|
| Institutionalized Population | | | | | |
| Correctional institutions | 466,371 | 1,115,111 | 139.1% | 1,195,568 | 7.2% |
| Nursing homes | 1,426,371 | 1,772,032 | 24.2% | 2,500,000 | 41.1% |
| Mental hospitals | 255,284 | 236,052 | -7.5% | 234,812 | -0.5% |
| Juvenile institutions | 97,695 | 104,200 | 6.7% | 109,086 | 4.7% |
| Hospitals or wards for chronically ill | 68,606 | 40,900 | -40.4% | 29,333 | -28.3% |
| Hospitals or wards for drug/alcohol abuse | | 20,129 | | 35,000 | 73.9% |
| Schools/hospitals/wards for mentally retarded | 149,421 | 103,713 | -30.6% | 81,500 | -21.4% |
| Schools/hospitals/wards-physically handicapped | 26,786 | 20,634 | -23.0% | 15,000 | -27.3% |
| Wards in hospitals for homeless | | 28,669 | | 35,000 | 22.1% |
| Total institutionalized persons | 2,490,534 | 3,441,440 | 38.2% | 4,235,299 | 23.1% |
| Non-institutional Group Quarters: | | | | | |
| College dormitories | 1,994,282 | 1,953,558 | -2.0% | 2,156,098 | 10.4% |
| Military quarters | 681,960 | 589,700 | -13.5% | 588,187 | -0.3% |
| Emergency homeless shelters | 50,794 | 178,638 | 251.7% | 250,000 | 39.9% |
| Visible in street locations | | 49,734 | | 75,000 | 50.8% |
| Shelters for Abused Women | | 11,768 | | 16,000 | 36.0% |
| Rooming & Boarding Houses | 176,257 | 127,244 | -27.8% | 102,482 | -19.5% |
| Homes/Half-way houses for drug/alcohol abuse | 30,682 | 52,038 | 69.6% | 77,391 | 48.7% |
| Maternity homes for unwed mothers | 1,623 | 1,682 | 3.6% | 1,724 | 2.5% |
| Other group homes | | 50,486 | | 85,826 | 70.0% |
| Religious group quarters | 88,649 | 61,473 | -30.7% | 48,262 | 21.5% |
| Agricultural and other workers' dormitories | 65,364 | 58,130 | -11.1% | 57,678 | -0.8% |
| Dormitories for nurses/interns in hospitals | 42,764 | 15,068 | -64.8% | 8,233 | -45.4% |
| Crews of maritime vessels | 8,229 | 5,650 | -31.3% | 4,412 | -21.9% |
| Staff residents of institutions & other non HH | 129,481 | 100,724 | -22.2% | 85,071 | -15.5% |
| Living quarters for natural disaster victims | | 311 | | 500 | 60.8% |
| Total other persons in group quarters | 3,270,085 | 3,256,204 | -0.4% | 3,556,864 | 9.2% |
| U.S. CENSUS TOTAL OUT-OF-HOME POPS | 5,760,619 | 6,697,644 | 16.3% | 7,792,163 | 16.3% |
| TOTAL HOUSING UNITS | 88,409,549 | 102,263,670 | 15.7% | 109,800,000 | 7.4% |

Source: U.S. Census and © 1997 Kagan Media Appraisals, Inc. estimates.

PRISON POPULATION

In a maximum security prison, for example, there might be one TV set per 50+ persons in a cell block while in some minimum security facilities prisoners might be allowed to have their own TV sets. The table below shows the U.S. prison population as of January 1, 1997. According to the Criminal Justice Institute, 36.2% of inmates are in medium security facilities,

SPECIAL REPORT (Continued)

33.0% in minimum security, 14.3% in close/high security, 12.4% in maximum security and 4.1% in the community.

PRISON POPULATION

| <u>Summary Information</u> | <u>Prisoners</u> | <u>Annual Change</u> |
|----------------------------|------------------|----------------------|
| State and D.C. Prisons | 1,016,054 | 4.1% |
| Federal Prisons | 95,088 | 6.2% |
| Total in Prisons | 1,111,142 | 4.2% |
| Other facilities | 53,354 | 16.9% |
| Jails | <u>31,072</u> | <u>-9.7%</u> |
| Grand Total | 1,195,568 | 4.3% |

Source: Criminal Justice Institute, The Corrections Yearbook, 1997, South Salem, New York

COLLEGE DORMITORIES

The typical college dormitory room houses two students. Many dorm rooms today are equipped with cable TV and SMATV. Students may watch TV in the privacy of their room or in common areas.

Our population estimates tend to be conservative. Our figure of 2,156,098 for college dormitory capacity, for example, probably understates the true number of students with TV sets.

COLLEGE DORMITORY ROOMS

| | Public Institutions | Public Capacity | Private Institutions | Private Capacity |
|----------------|------------------------|--------------------|-------------------------|---------------------|
| 4-Year Schools | 480 | 1,154,802 | 1,163 | 906,818 |
| 2-Year Schools | <u>206</u> | <u>71,183</u> | <u>85</u> | <u>23,295</u> |
| Total Rooms | 686 | 1,225,985 | 1,248 | 930,113 |

Source: Mark Glander, National Education Data Resource Center, citing: U.S. Dept. of Education, National Center for Education Statistics, Integrated Post-secondary Education Data System (IPEDS) Institutional Characteristics Survey, 1994-95.

SPECIAL REPORT (Continued)

According to the National Education Data Resource Center, government data underestimates the total number of dormitory rooms, because only 80% of schools responded to the U.S. Department of Education, National Center for Education Statistics' survey. We utilized that report's figure of 2.16 mil. dorm rooms in 1994-95 as our estimate for college dormitory capacity in 1997.

NURSING HOME/ASSISTED LIVING FACILITIES

Our estimates for the number of nursing homes comes from the American Association of Homes & Services for the Aging and the Information Resource Center of the American Healthcare Association.

Their data, in turn, is derived from Medicaid and Medicare Cost Reports of the Healthcare Financing Administration, 1995. Our 1997 updated figure of 2.5 mil. include both nursing homes and assisted living homes, but not continuing care retirement communities.

HEALTHCARE FACILITIES

| | <u>Facilities</u> | <u>Population</u> |
|-------------------------------------------|-------------------|-------------------|
| Nursing Homes* | 16,995 | 1,506,212 |
| Assisted Living** | 30K-40K | 1,000,000 |
| Continuing Care Retirement Communities*** | 1,200 | 350,000 |

* *Medicaid & Medicare Cost Reports, Healthcare Financing Administration, 1995*

** *Assisted Living Federation of America*

*** *American Associations of Homes & Services for the Aging, 1997 and Information Resource Center of the American Healthcare Association.*

MILITARY HOUSING

There are estimated to be 300,000 families of military personnel living on and off U.S. military bases in the U.S., 450,000 personnel in barracks, and 138,187 in ships afloat in U.S. waters.

SPECIAL REPORT (Continued)

We have not included figures for families living on and off the base, only the 450,000 in military barracks, which we supplemented with the 138,187 personnel afloat for a total of 588,187 military personnel not accounted for in traditional households. There are probably tens of thousands of military personnel living on military bases.

MILITARY BASES

| | <u>Military Personnel</u> |
|----------------------------------------|-------------------------------|
| Families on & off U.S. military bases* | 300,000 |
| Personnel in barracks* | 450,000 |
| Personnel afloat(1994)** | 180,000 |
| Personnel afloat(1996)*** | 138,187 |

* Source: Kent Miller, *Army Times*, quoting 5/9/95 testimony from Assistant Secretary of Defense, Joshua Gotbaum and U.S. Department of Defense.

**Source: U.S. Statistical Abstract 1996, P. 359

***Source: Publisher—Lt. Colonel Sol Gordon USAF (Retired) "1997 Uniformed Services Almanac," Personnel in U.S. Waters only.

Figures for military housing are available, base by base, state by state, with breakdowns for barracks, family housing, trailer/RV, mobile homes, dormitories, townhomes, duplexes, temporary housing and visitor quarters in Directory of U.S. Military Bases Worldwide, 1995, Oryx Press, by William Eving, Phoenix, AZ.

At Vandenberg AFB, for example, there are 3,120 military personnel, 4,600 dependents and 5,260 civilian workers. Of these, 2,078 live in family housing units, 1,144 live in barracks, 168 in duplexes, 100 live in townhomes, 172 in mobile homes, 69 in RVs and 568 in temporary housing.

At Bolling AFB, there are 3,160 on active duty, 3,500 dependents and 1,390 civilian workers. Of these, 1,395 live in family housing units and 266 in temporary housing.

SPECIAL REPORT (Continued)

RECREATIONAL VEHICLES/MOTORHOMES

Since 1982, according to the Recreational Vehicle Industry Association (RVIA), 5,837,000 RVs have been shipped, of which the RVIA estimates one-half are motor homes. Nearly all motor homes and most conversion vehicles are equipped with TV sets, according to RVIA. (Beginning in 1994, shipment figures include truck and sport utility conversion vehicles). The average mortgage on these vehicles is for 15 years. Perhaps as many as 10% of motorhome owners reside in their vehicles for much of the year and many more persons reside in these motor homes throughout the summer and winter.

RECREATIONAL VEHICLE SHIPMENTS, 1982-1996

| <u>Year</u> | <u>Shipments</u> | <u>Year</u> | <u>Shipments</u> |
|-------------|------------------|-------------|------------------|
| 1982 | 258,000 | 1990 | 347,300 |
| 1983 | 358,000 | 1991 | 293,700 |
| 1984 | 391,000 | 1992 | 382,700 |
| 1985 | 351,700 | 1993 | 420,200 |
| 1986 | 371,700 | 1994 | 518,800 |
| 1987 | 393,600 | 1995 | 475,200 |
| 1988 | 420,000 | 1996 | 466,800 |
| 1989 | 388,300 | TOTAL | 5,837,000 |

Source: Recreational Vehicle Industry Association

SEASONAL HOMES

According to the 1990 U.S. Census, mobile homes accounted for 7% of U.S. housing, or about 7.16 mil. housing units. In addition, there were 3,116,867 seasonal, recreational or occasional homes, plus 34,944 vacant migratory homes. Of the 102,263,678 housing units in 1990, 91,947,410 were occupied and 10,316,268 were vacant. It stands to reason that probably one-third of these "vacant" homes are seasonal and second homes.

SPECIAL REPORT (Continued)

HOTEL RESIDENTS

Another statistic that is not accounted for in the Census is the number of "extended stay" and permanent hotel residents. For many years, MCI founder Bill McGowan lived in a hotel. It is increasingly common for business travelers to reside for months at a time in a temporary residence. There are 3.2 million hotel rooms in the U.S. One of the fastest growing subsets is extended stay housing, such as the Oakwood Apartments.

"According to Schroder Wertheim data, the extended stay room count will more than double over the next three years, totaling approximately 230,183 rooms by 2000. . . Analysts speculate potential for extended stay is between 10 and 15 percent of total industry demand, or slightly under 400,000 rooms, by 2000. . ." Grace Wagner, "The Extended Stay Fray," Lodging Hospitality, April 1, 1997.

Reporter Carlo Wolff in "Welcome to the Extended Stay Frontier," Lodging Hospitality, Dec. 1, 1996, states: "[A]ccording to Mark V. Lomanno, executive vice president of Smith Travel Research, there are 41,000 rooms in the extended stay segment. . . Extended stay facilities, particularly in the middle and lower tiers, typically open with occupancies in the 80s. . ."

An article in the Omaha World-Herald, April 27, 1997, quotes Richard Conti, head of the Coopers & Lybrand Midwest hospitality industry consulting group, based in Cleveland, saying there are 600 extended stay properties today averaging 125 rooms/property. He estimates the number of properties could rise to 2,000 properties within three years.

YACHT SALES

There are 15,830,000 boats in use, of which 11,734,710 were registered by the states as of Dec. 31, 1995. Of those, 1,596,000 are inboard boats (cruisers, auxiliary powered sailboats and personal watercraft); 1,452,000 are stern drive boats; and 8,049,000 are outboard boats.

SPECIAL REPORT (Continued)

LARGE BOAT SALES AND COSTS, 1994-96

| | <u>1994</u> | <u>1995</u> | <u>1996</u> |
|-------------------|-------------|-------------|-------------|
| Cruiser Sales | 4,200 | 5,460 | 5,350 |
| Avg. Unit Cost | \$212,067 | \$214,195 | \$277,153 |
| Runabout Sales | 7,200 | 6,900 | 6,000 |
| Avg. Unit Cost | \$19,830 | \$21,400 | \$21,039 |
| Stern drive Boats | 90,000 | 93,600 | 94,500 |
| Avg. Unit Cost | \$18,542 | \$19,138 | \$20,373 |

Source: National Marine Manufacturers Association

Manufacturers last year sold 5,350 cruisers at an average cost of \$277,153. It is this class of yacht on which people are most likely to reside. Without further research, however, it is not known how many persons reside on boats, how long, or where.

OIL RIGS

According to the Minerals Management Service, a New Orleans-based unit of the Department of Interior, there are 35,000 petroleum workers who reside on off-shore oil drilling facilities in domestic waters. Workers typically reside on such facilities for seven weeks at a time, often taking "seven weeks on and seven weeks off."

CONCLUSION

An analysis of the 1980 and 1990 census shows out of home institutional and non-institutional group quarters increased from 5.76 mil. to 6.70 mil. We believe that at a minimum the total institutional and non-institutional group quarter population today exceeds 7.79 mil. based upon PKA projections and data obtained from a wide range of government agencies, trade associations, and independent analysts. Our figures do not include any allocation for seasonal homes, seasonal motorhome residents, extended-stay hotel residents, yacht owners and oil rigs.

One of the largest categories of non-traditional homes we did not include in our total is what the U.S. Census refers to as seasonal, recreational or occasional homes—a total of 3,116,867 second homes. Of the 102,263,678 housing units in 1990, 91,947,410 were occupied and 10,316,268 were vacant. Many of these so-called “vacant” homes, however, are actually seasonal homes. If such homes are counted, then the our total population/household figure would climb to more than 10 mil.