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BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
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)
1998 Biennial Regulatory Review--)
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"Annual Report of Cable Television)
System," Form 325, filed pursuant to)
Section 76.403 of the Commission's Rules)

CS Docket No. 98-61

REPLY COMMENTS
of
ADELPHIA COMMUNICATIONS CORPORATION
FALCON CABLE TV
THE PENNSYLVANIA CABLE & TELECOMMUNICATIONS ASSOCIATION
and
TELE-MEDIA CORPORATION OF DELAWARE

Adelphia Communications Corporation, Falcon Cable TV, the Pennsylvania Cable & Telecommunications Association and Tele-Media Corporation of Delaware (collectively, the "Operators"), by and through their undersigned counsel, hereby file the following reply to the initial comments submitted in the above-referenced proceeding wherein the Commission is considering whether to modify or eliminate its requirement that all cable systems annually file the information requested by FCC Form 325A.¹ The Operators are MSOs that operate cable systems serving communities in urban, suburban and rural markets throughout the country and a regional

¹Notice of Proposed Rulemaking in CS Docket No. 98-61, __ FCC Rcd __ (April 30, 1998).

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trade association composed of such cable system operators and are thus directly affected by the Commission's action in this proceeding. As set forth more fully below, the Operators support the comments submitted in this proceeding which advocate complete elimination of the annual FCC Form 325 filing.²

Comments supporting retention FCC form 325 were filed by two parties: the Institute for Public Representation, *et al.* ("IPR") and the National Association of Broadcasters ("NAB"). Despite the persuasive case made by NCTA that the FCC Form 325 is a relic of a bygone era and no longer serves any useful regulatory purpose, IPR argues that elimination of the Form 325 would make it difficult for the public and FCC to monitor the cable industry.³ IPR further claims that FCC Form 325 is "critical to [FCC] assessment of operators' compliance with its rules concerning leased access, must carry and horizontal concentration."⁴ NAB, on the other hand, states that it is "concerned that critical cable system information be available for purposes of the upcoming DTV must carry proceeding."⁵ NAB expresses its belief that retention of FCC Form 325 may be necessary because information is not readily available from commercial sources concerning cable system capacity in MHz and cable system compression of signals.⁶

²See Comments filed by the National Cable Television Association ("NCTA") and by Ameritech New Media, Inc. ("New Media").

³IPR Comments at pp. 2-3.

⁴IPR Comments at p. 11.

⁵NAB Comments at pp. 1-2.

⁶NAB Comments at p. 2.

These arguments are entirely devoid of any of factual foundation and must be rejected. If ever there existed a regulatory requirement that was ripe for elimination under the Paperwork Reduction Act of 1995, it is the requirement for the annual FCC Form 325 filing. The information available on the FCC Form 325 simply duplicates information that is available through other means, including other FCC and governmental filings (such as the filings made pursuant to FCC Rule Sections 76.12, 76.400, 76.612, 76.615 and the detailed quarterly and annual reports that many, if not most, cable operators are required to file with the Securities and Exchange Commission), as well as from commercial sources (such as Paul Kagan, Warren Publishing and A.C. Nielsen).

Furthermore, the fact that the annual Form 325 filing requirement has been observed more often in the breach than in practice clearly indicates that the information contained in that form has no impact whatsoever on the ability of the public or FCC to monitor the cable industry in any meaningful manner. The FCC in its NPRM acknowledges that the FCC Form 325 has not been sent out since 1994 (requesting information existing as of December 1993).⁷ This is also acknowledged in the comments filed by NCTA and New Media.⁸ In truth, although the FCC rules have required the annual filing of FCC Form 325 since 1971, the FCC Form 325 information has only been collected by the Commission three times in the eleven year period from 1988-1998 (with a partial collection in 1989).

⁷NPRM at para. 5.

⁸NCTA Comments at p. 6; New Media Comments at p. 3.

It cannot be overlooked that the present FCC Form 325A, which has only been sent by the FCC to cable operators for information collection purposes twice since it was implemented in 1993 (once in 1993 and once in 1994) in itself represented an attempt to streamline the information process by combining the previously separate FCC Forms 325, Schedules 1 and 2 into a single filing. By the time that the first consolidated FCC Form 325A was sent out to cable operators in 1993, the FCC had failed to collect any information required by FCC Forms 325, Schedules 1 and 2 since 1989 and 1988, respectively. It is simply impossible to fathom how any entity can credibly argue that the information reported on FCC Form 325 is in anyway necessary for the FCC to carry out its regulatory responsibilities under the Communications Act.

IPR's assertion that collection of the Form 325 information is "critical" to the Commission's regulatory oversight of leased access, must carry and horizontal ownership simply ignores the fact that the FCC Form 325 does not provide *any* information which would enable even the most experienced regulator to determine whether or not a particular cable system was in compliance with the rather detailed and fact specific application of those rules. In fact, the filing or non-filing of complaints under the complaint procedures established by the FCC for must carry, leased access, and channel occupancy limits provides far more detailed and useful information from which the FCC can assess the state of competition in the provision of video programming services than could ever be gleaned from the general and unfocused information required by the Form 325.⁹ Indeed, NAB's concern that information as to signal compression may not be

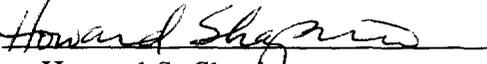
⁹As to horizontal ownership limits, the FCC has adopted a certification and waiver process which places the burden on cable operators approaching the 30% national limit to certify compliance on a transaction-by-transaction basis and provide information justifying a rule waiver

obtainable from readily available commercial sources overlooks the fact that information on signal compression is neither requested by nor reported on the FCC Form 325, and would thus have to be obtained from other sources in any event.

Given that, as detailed in the comments filed by NCTA, the regulatory justifications underlying the original imposition of the Form 325 reporting requirements no longer exist, the information contained on the form is readily available from other public and commercial sources, and the cost to both cable operators and the FCC in preparing, reviewing, correcting, and updating the information a yearly basis simply cannot be justified in light of the lack of any real need for such information, the Operators respectfully request that the FCC repeal section 76.403 of its rules and eliminate the Form 325 in its entirety.

Respectfully submitted,

ADELPHIA COMMUNICATIONS CORPORATION;
FALCON CABLE TV; THE PENNSYLVANIA CABLE &
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⁹(...continued)

once such limits have been reached. See 47 C.F.R. §76.503; Second Report and Order in MM Docket No. 92-264, 8 FCC Rcd 8565 (1993) at ¶39, *recon. denied* 10 FCC Rcd 7364 (1995). This procedure will certainly provide more useful and timely information to the Commission than the 325 process in light of the fact the ownership information required by Schedules 3 and 4 of the FCC Form 325 has not been collected by the FCC for approximately two decades.

CERTIFICATE OF SERVICE

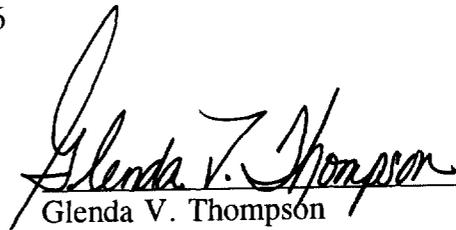
I, Glenda V. Thompson, a secretary at the law firm of Fleischman and Walsh, L.L.P., hereby certify that a copy of the foregoing "Reply Comments" was served this 15th day of July, 1998, via first class mail, postage prepaid, upon the following:

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