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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

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In the Matter of)	
)	
1998 Biennial Regulatory Review)	
)	CS Docket No. 98-61
"Annual Report of Cable Television)	
System", Form 325, filed pursuant to)	
Section 76.403 of the Commission's)	
Rules)	

REPLY COMMENTS OF
THE NATIONAL CABLE TELEVISION ASSOCIATION

The National Cable Television Association ("NCTA"), by its attorneys, hereby replies to the Comments of the National Association of Broadcasters ("NAB") submitted in the above-captioned proceeding.

NAB claims that it "generally supports proposals to either eliminate or reform the process of data collection in order to conserve resources of both the FCC and private parties."¹ In this case, however, it argues that Form 325 should be maintained. It contends that unless cable operators are required to fill out Form 325, "critical cable information" that is needed for the DTV must carry proceeding will not be available. It further alleges that this critical information is not available from private sources. It maintains that commercial services do not provide "system capacity, in megahertz, and systems' compression of signals."² But it concedes that

¹ NAB Comments, CS Docket No. 98-61, Jun. 30, 1998, at 1.

² Id. at 2.

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Form 325 will not be needed if it can be demonstrated that system-specific capacity and usage data will be available in the absence of Form 325.³

NAB is wrong when it maintains that the pending DTV must carry proceeding argues in favor of retaining Form 325. That proceeding will consider whether must carry requirements should be imposed upon cable operators for digital broadcast stations. NCTA opposes the efforts of broadcasters to have the government impose digital must carry at the expense of cable programmers. It is premature for the Commission to collect information allegedly needed to implement digital must carry before that proceeding is completed. By acceding to NAB's proposal, the Commission would signal a prejudgment of the digital must carry proceeding.

NAB is also wrong when it argues that Form 325 is needed to provide system bandwidth and compression information needed for the offering of digital services. Form 325 asks for the frequencies upon which individual channels operate. But it does not ask for data on system bandwidth or compression. The issuance of Form 325 will do nothing to satisfy this alleged information requirement.

Form 325 is particularly unnecessary because, NAB's contentions notwithstanding, the channel capacity and channels in use data are available from the Copyright Office and commercial sources. NAB expresses concern that "the commercial sources for cable system information may not be as reliable and precise"⁴ as is needed. As NAB is surely aware, every cable system semi-annually files with the Copyright Office the total number of activated channels, as well as the number of activated channels on which the system carries television

³ Id.

⁴ Id.

broadcast stations.⁵ The Copyright Office will provide an effective check on commercial sources, should one prove necessary.

As NCTA detailed in its comments, Warren Publishing maintains a continually updated data base and issues an annual hard copy report of all cable systems in the United States. Warren's *TV Factbook* and associated online data base contain detailed, system-specific information, including number of channels and channels in use. A.C. Nielsen also maintains an online data base of key system-specific information.

Even if the commercial services do not currently collect currently bandwidth information related to digital services, they can be expected to do so in the future if a market demand develops. To date, there has been no market need for this information. If the circumstances change, the Commission can confidently rely upon the commercial sources to satisfy this market need.

Moreover, in the unlikely event that private arrangements between parties and the services of commercial outlets fail to provide necessary information, and other government sources prove insufficient, the Commission can always seek the information as needed.

Finally, by imposing this burdensome filing requirement upon every cable system in the country, the Commission will collect far more information than even NAB claims is needed. Besides basic information on channel capacity and channels in use, Form 325 requires, inter alia, submission of the number of actual and potential subscribers, cable plant length, month and year of commencement of operation, frequencies at which all cable signals operate, types of local programming and ancillary services offered.

⁵ Copyright Office Form SA1-2.

The Commission should proceed to adopt its proposal to formally eliminate Form 325. There are alternative means to achieve whatever purposes the form has served. The costs of retaining the form significantly outweigh any perceived benefits.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Leslie D. Heath, do hereby certify that copies of the foregoing **REPLY COMMENTS** were sent via first-class, postage prepaid, United States mail, this 15th day of July, 1998, to the following:

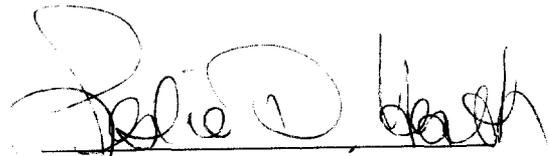
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