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October 12, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

RE: Filing of the Comments of the Small Cable Business Association in the Matter of Carriage of the Transmission of Digital Television Broadcast Stations. CS Docket No. 98-120

Dear Ms. Salas:

We enclose for filing an original and ten copies of the above referenced comments. We ask that you file stamp one of the copies as received and return it in the enclosed Federal Express envelope.

If you have any questions or need additional information, please call us.

Very truly yours,

BIENSTOCK & CLARK

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cc: Deborah Lathen
William Johnson
Ben Golant

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Before the
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In the Matter of	)	
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Carriage of the Transmission	)	
of Digital Television Broadcast Stations	)	CS Docket No. 98-120
	)	
Amendments to Part 76	)	
of the Commission's Rules	)	

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of the
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October 13, 1998

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SUMMARY

Any unconditional digital broadcast signal carriage obligation poses the greatest threat to the financial viability of small cable businesses since the return of rate regulation in 1993. The Small Cable Business Association ("SCBA") supports localism. SCBA never opposed analog must-carry; however, it cannot endorse any digital carriage requirement. Nevertheless, in the spirit of cooperation, SCBA offers these comments to help the Commission understand SCBA's concerns and to suggest constructive solutions.

High Per Subscriber Costs

The cost of digital carriage will likely exceed $2,000 per digital channel. With broadcasters reportedly planning to launch multiple digital channels, a small cable operator could easily find itself with $30,000 to $60,000 of headend costs. For a 1,000-subscriber system, that requires a $300 to $600 investment per subscriber and imposes unrealistic financial burdens. Customer set-top boxes add at least another $300 to the cost.

Decide Small Cable Issues

The Commission must address small cable issues when it addresses digital carriage for the industry. Deferring small cable issues will cast a chilling cloud of uncertainty over the capital markets. Deferral also ignores small cable service to rural and insular segments of large television markets where digital broadcasting will begin by the end of the year.

Dual Carriage Remains a Problem

Carriage of digital broadcast signals requires substantial investment in headend and system equipment. For small systems, this investment often results in unaffordably high per subscriber costs. Carriage of both analog and digital signals during a transition period would also cause substantial disruption, especially to channel-locked systems.

SCBA's Proposed Framework

To match the technological and economic viability of small cable carriage of digital signals with any Commission action, SCBA offers the following framework:

- **Provide relief to systems with 15,000 or fewer subscribers.** The system size definition used for the small system rate rules also properly describes the systems that warrant relief from unduly burdensome digital carriage requirements.

- **No requirement for small cable in smaller television markets.**

  - **Prior to return of analog broadcast spectrum.** Concurrent analog and digital broadcasts pose the same difficulty for small broadcasters that dual carriage poses for small cable. If the Commission removes the dual broadcast requirement for small television markets, it should also refrain from any small system digital carriage requirement in those markets.

  - **After return of analog broadcast spectrum.** The Commission should forego any small cable carriage requirement, instead relying on strong market forces to ensure carriage where technically and economically viable. With all broadcast signals only in digital format and continued aggressive DBS competition, small cable will have a huge incentive to carry local digital signals if at all possible.

- **Exempt small cable systems with 5,000 or fewer subscribers.** Regardless of the television market size, the Commission should exempt all systems with 5,000 or fewer subscribers because they cannot afford the high fixed cost and resulting high per subscriber cost of implementing digital carriage.

- **Require carriage by systems between 5,000 and 15,000 subscribers only where technically and economically viable.** Small cable businesses remain best positioned to determine when digital signal carriage becomes technically and economically viable. A small system would have an obligation to carry digital signals following a request from a local broadcaster, unless it certified to the broadcaster the technical or economic inviability of carrying the digital signal. This process would also facilitate business-to-business discussions and potential cooperative solutions.

Retransmission Consent Limits Needed

Carriage requirements can arise outside of a Commission mandate. Broadcasters can — and SCBA believes will — seek contractual digital signal carriage obligations from

small cable. Broadcasters have significant market power through their ability to withhold local analog signals from small cable subscribers. Small cable, on the other hand has no bargaining power because its subscriber bases comprise an immaterial portion of the broadcaster's total market. Broadcasters have no financial downside if small systems do not carry their signals.

Small cable simply cannot afford to comply with digital signal carriage demands of broadcasters. This will inevitably result in a large-scale loss of local analog broadcast signals to small cable system subscribers by the end of next year.

SCBA strongly encourages the Commission to place limits on broadcasters' ability to condition analog retransmission consent on digital carriage. The Commission should also limit broadcasters' ability to discriminate between large and small cable systems when imposing retransmission consent costs and burdens.

Before the
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Washington, D.C. 20554

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Comments
of the
Small Cable Business Association

I. INTRODUCTION

A Commission mandate to carry any digital broadcast signal potentially poses the most significant regulatory threat to the financial viability of small cable. The financial harm caused by such a mandate could easily exceed that imposed by initial rate regulation in the early 1990s. Much like the initial rate regulation that failed to accommodate the unique cost structures and circumstances of small cable, a unitary must-carry framework applicable to both small and large systems will have catastrophic results.

The Small Cable Business Association (SCBA), since its formation in 1993 as a grassroots organization to respond to the burdens imposed by rate regulation, has remained active before the Commission to address regulatory initiatives that uniquely impact small cable businesses. SCBA offers these comments to help the Commission both understand the potential impact of digital carriage on small cable businesses and to outline a framework to help the Commission tailor any requirements to meet the unique needs of small cable businesses.

II. SCBA DOES NOT ENDORSE ANY DIGITAL CARRIAGE REQUIREMENT.

A. SCBA Supported Analog Must-carry.

SCBA continues its strong support of local programming. The majority of the cable industry rebelled against the 1992 reintroduction of mandatory carriage of analog broadcast signals. Not SCBA. SCBA never sought to overturn must-carry of analog broadcast signals.[1] SCBA has always maintained that local broadcasters play an integral role in the provision of local programming.[2] SCBA strongly supports localism.[3] Support of analog must-carry, however, does not translate into support of a parallel digital carriage requirement.

B. SCBA Does Not Support Digital Must-carry.

A digital carriage mandate would shift the burden of developing both the viewing audience and the demand for consumer acquisition of digital receivers to small cable businesses. This misallocates the burden. Broadcasters must carry the burden and associated cost of developing their product to the point where the desire to watch the program prompts the consumer to purchase digital receivers. Any digital carriage requirement for cable must coincide with market development, not lead it.

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[1]David Kinley, *New Battles for Small Cable Operators*, MULTICHANNEL NEWS, April 21, 1997, at 57 (Exhibit A).

[2]*In the Matter of Revision of the Cable and Satellite Compulsory Licenses; Public Hearings*, Library of Congress, Copyright Office; Written Testimony of the Small Cable Business Association, Docket No. 97-1 (April 28, 1997) at 18-19.

[3]*Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992, Direct Broadcast Satellite Service Obligations*; Comments of the Small Cable Business Association, MM Docket No. 93-25 (April 28, 1997) at 4-16.

Mandatory digital carriage threatens to fully consume, even exceed, the limited resources of small cable. It would require conversion of cable systems' headends and distribution plant to process digital signals, as well as the replacement of customer premises equipment in many cases. As discussed more fully in these comments, the relatively low number of subscribers of many small systems will not support the high cost of converting headends and systems to digital technology.

III. THE COMMISSION MUST CONSIDER A WIDE RANGE OF ISSUES WHEN CONTEMPLATING ANY MANDATORY CARRIAGE OF DIGITAL SIGNALS.

A. The Commission Must Establish Small Cable Provisions Concurrent with Adoption of Any Requirements for the Cable Industry.

Any number of Commission actions in this rulemaking could slam shut the capital market's doors to small cable. The Commission must exercise caution as it addresses mandatory carriage of digital signals by small cable businesses. The harmful actions the Commission could take range from imposing unconditional digital signal carriage requirements on small cable businesses to postponing a decision about small cable beyond the date it decides what burdens, if any, it will impose on other cable systems.

If the Commission decides to impose any burdens on the cable industry, then it must:

1. Craft meaningful small cable rules.

A "one size fits all" approach to digital must-carry will impose disparate burdens on small cable businesses. The Commission must craft a framework to tailor those requirements to accommodate the unique circumstances of small cable.

2. Craft rules concurrently.

Delaying imposition of small cable rules will cast a cloud of uncertainty and restrict small cable's access to capital.[4] The Commission must craft the small cable framework concurrently with any industry-wide requirements.

B. Small Cable Issues Exist in Large Markets.

Small cable is not restricted to rural America. Although small cable businesses provide service to much of rural America, many small cable businesses also provide service to rural or insular areas located along the fringes of large television markets. Many television markets, as measured by the Area of Dominant Influence, extend well beyond the principal population clusters of metropolitan areas. Other large metropolitan areas have "pocket neighborhoods" isolated by either areas of low-density population or geographic features (*e.g.*, large bodies of water or mountainous terrain).[5]

Because small cable businesses provide service to large television markets, any construction by the Commission that restricts the applicability of the small cable regulatory framework to small television markets will not provide appropriate relief. The financial

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[4] In the past, the Commission has adopted finite delays as one measure to deal with small cable concerns. For example, the 10-year deferral of the anti-buy-through rules will end in about four years even though the cost of necessary technology today still makes compliance unaffordable. Concern over complying with these rules four years hence can already be felt in the capital markets. Similarly, the Commission's deferral of the resolution of small cable's emergency alert obligations until 2002 has caused concern. If these items have caused problems, a major obligation such as mandatory carriage of digital signals will cause major disruptions in the capital markets for small cable.

[5] For example, Sun Country Cable provides service to about 1,181 subscribers and passes 2,198 homes in Los Altos Hills, California. Rugged terrain and the rustic nature of the area have limited growth. Sun Country also provides service to Deer Park, Washington, about 30 miles north of Spokane. There, Sun Country serves 501 out of 650 homes. Deer Park is a rural farming area isolated by extensive farm land.

attributes of small cable (*e.g.*, absence of economies of scale, higher per subscriber costs and higher operating costs resulting from lower densities of homes) exist for small cable businesses located in large as well as smaller television markets. The Commission must craft a regulatory framework that encompasses all small cable businesses.

C. If the Commission Has Authority to Mandate Carriage, It Can Tailor Rules to Accommodate Small Cable Attributes.

The Commission has no statutory mandate to impose any digital carriage requirement on small cable. SCBA agrees with the National Cable Televison Association and others that the Commission lacks a statutory mandate to impose a digital must-carry requirement on cable operators. Consistent with this analysis, should the Commission impose such a burden, it can craft provisions that provide appropriate relief to small cable businesses.

Many further argue that the Commission lacks authority to impose any requirement. SCBA agrees but defers its analysis to the comments of the National Cable Television Association. Instead, SCBA devotes its limited resources to help the Commission analyze the potential burdens mandatory digital carriage would impose on small cable and to propose possible solutions.

D. Technological Uncertainty Makes Crafting Any Requirement Difficult.

Many commenters will likely highlight to the Commission the uncertainty that exists with respect to the ultimate digital technology broadcasters will adopt. Eighteen different digital formats currently exist. CBS and NBC reportedly will use 1080I (1080 line interlaced) technology while ABC and Fox have announced plans to use 720P (720 line

progressive scanning).[6] Until a uniform format emerges, cable systems will incur higher costs to accommodate multiple formats.

The technological uncertainty makes estimation of the costs of digital carriage difficult. Nevertheless, SCBA can use the current costs of the digital service, Headend in the Sky ("HITS"), to estimate the cost of digital broadcast signal carriage. The lowest cost for HITS averages $1,000 per digital channel. This cost is significantly higher if only a few channels are added. The HITS cost also does not include equipment to reprocess the digital signal that broadcast signals will require.

SCBA estimates that the per channel headend cost for digital broadcast signal carriage will be at least $2,000 and likely higher. Consequently, for the average television market with five stations, digital conversion will cost $10,000 just at the headend. If the stations each choose to broadcast three digital signals, the cost jumps to $30,000. If they each choose to broadcast six, the cost goes to $60,000. The following table shows the impact of these cost scenarios on per subscriber costs for various system sizes:

Per Subscriber Headend Cost of Digital Must-Carry
(Number of Channels for Each of Five Local Stations)

System Size	One Channel	Three Channels	Six Channels
100 subscribers	$100.00	$300.00	$600.00
500 subscribers	$20.00	$60.00	$120.00
1,000 subscribers	$10.00	$30.00	$60.00
5,000 subscribers	$2.00	$6.00	$12.00
10,000 subscribers	$1.00	$3.00	$6.00
15,000 subscribers	$0.67	$2.00	$4.00

[6] *See* Russ Mitchell, *TV's great leap forward*, U.S. NEWS ONLINE (April 20, 1998) <http://www.usnews.com/usnews/issue/980420/20tv.htm>.

In addition to these headend costs, the operator must also acquire a set-top box, costing at least another $300 per subscriber to deliver the digital signal.

SCBA stresses that it has used conservative cost estimates. The actual costs could be much higher. As the broadcast and cable industry work through the various technology issues, SCBA will revise its cost estimates and keep the Commission informed regarding revisions to the estimated burden on small cable and its subscribers.

IV. THE COMMISSION MUST ESTABLISH A FRAMEWORK THAT ACCOMMODATES THE UNIQUE CIRCUMSTANCES OF SMALL CABLE BUSINESSES.

A. SCBA Proposes a Flexible Framework to Accommodate the Needs of Small Cable.

The Commission has determined that nearly two-thirds of the nation's cable systems, over 7,000, are small and independently owned and operated.[7] These cable systems range in size from less than 50 subscribers to 15,000 subscribers, with most having fewer than 1,000 subscribers.[8]

The large number of small systems coupled with unique characteristics of different systems creates an almost infinite combination of circumstances that make unitary and detailed regulation of small cable virtually impossible. SCBA proposes a flexible regulatory

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[7] *In the Matter of Implementation of Sections of the Cable Television consumer Protection and Competition Act of 1992, Rate Regulation*; Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393 (1995) ("*Small System Order*") at ¶ 32. The number of small, independently owned small systems has not significantly decreased since the release of the *Small System Order*. Much of the small system consolidation has occurred among MSOs that specialize in the operation of small systems and have fewer than 400,000 subscribers. Further, many large MSOs have sold small systems to smaller independent companies.

[8] 6,225 systems have fewer than 1,000 subscribers; however, not all qualify as independently owned. *Television and Cable Factbook* (Warren Publishing, 1998) at I-97.

framework that recognizes the broad diversity of cable system profiles. This framework will take any requirements the Commission may impose and adjust them appropriately for small cable businesses.

B. Cable Systems with 15,000 or Fewer Subscribers Should Qualify for Relief Under the Small Cable Framework.

1. The Commission has already determined that systems with 15,000 or fewer subscribers should qualify for reduced regulatory burdens.

When the Commission established a new small system definition of 15,000 or fewer subscribers, it determined that:

> [A] large number of smaller cable operators face difficult challenges in attempting simultaneously to provide service to subscribers, to charge reasonable rates, to upgrade networks, and to prepare for potential competition.[9]

The Commission also noted that it is "particularly sensitive to the notion that smaller systems face disproportionately higher costs" and that regulations must "give an operator the opportunity to recover its actual, reasonable costs."[10] These conclusions remain accurate, with the exception of the qualifier of "potential" competition. Competition in the form of aggressive DBS services has arrived in rural markets in force.

The Commission's small system definition and accompanying analysis supports special consideration in this proceeding for systems with 15,000 or fewer subscribers. Digital signal carriage requirements will add tremendous per subscriber costs for small

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[9] *Small System Order* at ¶ 25.

[10] *Id.* at ¶ 56 (emphasis added).

cable systems.[11] Burdensome digital must-carry will make it more difficult to conduct the activities that the Commission cited in its *Small System Order* rationale (*e.g.*, provide service, charge reasonable rates, upgrade systems, etc.).

2. If the Commission establishes a company size limit, it should not fall below 617,000 subscribers.

The Commission has reasoned that small system relief need not extend to those systems affiliated with a large cable operator that has greater administrative and financial resources.[12] For purposes of rate regulation, the Commission set the maximum affiliate size at 400,000 subscribers. If the Commission decides to limit the availability of small cable digital must-carry relief, it must increase its current company size limit.

Congress established a small company size definition after the Commission's adoption of the 400,000 subscriber definition. Congress, when establishing limits for <u>total deregulation</u>, not just <u>decreased regulation</u>, established the limit at one percent of the nation's cable subscribers.[13] The Commission equated this to 617,000 subscribers.[14] If the Commission believes it must impose a company size cap, it should follow Congress' lead and set the cap no lower than 617,000 subscribers.

A company size cap of at least 617,000 subscribers will also reflect that a number of growing MSOs now specialize in the acquisition and ownership of small cable systems.

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[11]SCBA estimates that the cost could easily exceed $2,000 per digital channel carried just for headend equipment. The cost at the subscriber home could also exceed $300 for set-top devices.

[12]*Small System Order* at ¶ 28.

[13]47 U.S.C. §543(m)(2).

[14]47 CFR §76.1403(b).

Often these companies provide needed rebuilds and upgrades to allow the introduction of new services to rural and insular areas. These companies, however, unlike an MSO with diversified system sizes, face much greater risk. If unaffordable digital carriage obligations were imposed on small systems, it could cause MSOs that own only small systems significant financial harm.

3. Different classes of small systems warrant unique treatment.

The large number of small systems with substantially fewer than 15,000 subscribers requires different levels of relief for different sized small systems. Systems with fewer than 1,000 subscribers make up the largest contingent of systems that qualify for small cable relief. The following table shows the significant number of small systems:

[redacted]	[redacted]	[redacted]
Not available	363	3.35%
50,000 and over	265	2.45%
20,000 - 49,000	446	4.12%
10,000 - 19,000	508	4.69%
5,000 - 9,999	665	6.14%
3,500 - 4,999	399	3.68%
1,000 - 3,499	1,967	18.15%
500 - 999	1,434	13.23%
250 - 199	1,468	13.54%
249 and under	3,323	30.66%
Total	**10,838**	**100.00%**

Almost 76% of the cable systems in the country have less than 3,500 subscribers. More than 57% have less than 1,000 subscribers. Almost 31% have less than 250 subscribers.

Smaller systems within the 15,000 subscriber group need different provisions. In the remainder of these comments, SCBA outlines its proposal for small system relief that provides appropriate aid to different sizes of small systems.

C. Exempt Small Cable Systems Serving Smaller Markets.

Analysis of the concerns of small cable systems that serve smaller television markets reveals that small cable's concerns mirror those of many small broadcasters. When considering digital carriage obligations, the Commission should consider separate provisions for smaller market systems serving 15,000 or fewer subscribers.

1. Dual carriage requirements (concurrent analog and digital) present a major concern for small cable.

A dual carriage requirement will impose significant costs on small cable businesses and their subscribers. These include (1) diminished diversity of programming sources; (2) higher per subscriber costs; and (3) increased headend costs resulting from multiple digital formats.

Carriage of both analog and digital signals would have harsh consequences for channel-locked systems and their subscribers. Those systems would have to drop existing programming to accommodate carriage of both analog and digital signals. This would lessen diversity in programming sources because subscribers would likely see digital programming identical to that provided by the analog signal instead of other programming. Subscribers without digital set-top boxes or digital receivers will only see a blue screen, not even duplicative programming. For small cable, the disruption could cause breach of programming agreements and extreme customer dissatisfaction.

The costs of dual carriage become greater due to the necessity of converting headends and systems in the near future, before the industry has resolved technological and formatting issues. For example, eighteen formats exist for providing digital signals.[15] This means cable systems must reconfigure their systems to accept multiple formats, compounding the cable operator's costs.

For small cable, the costs of dual carriage outweigh the benefits. The costs of dual broadcasts may cause similar financial concerns for small-market broadcasters.

2. Elimination of a dual carriage requirement for smaller markets would remove this issue for both small cable and small broadcast.

a. Simulcasting requirements impose significant costs on small market broadcasters.

SCBA understands that some broadcasters may advocate elimination of a dual broadcast transition period for smaller television markets. In those markets, broadcasters must have operational digital stations as of May 1, 2002; and, beginning in 2003, they must simulcast increasing amounts of their programming in analog and digital formats.[16] Like cable operators, broadcasters in smaller television markets face daunting economic concerns related to simultaneous analog and digital broadcast requirements.

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[15] *See* Russ Mitchell, *TV's great leap forward*, U.S. NEWS ONLINE (April 20, 1998) <http://www.usnews.com/usnews/issue/980420/20tv.htm>.

[16] *In the Matter of Carriage of the Transmissions of Digital Television Broadcast Stations*, Notice of Proposed Rule Making, FCC 98-153 (released July 10, 1998) ("*NPRM*") (citing *Fifth Report and Order* in MM Docket 87-268, 112 FCC Rcd 12809, 12832, 12841 (1997)).

b. To alleviate the financial strains of digital television on small cable and small broadcasters, the Commission should forego dual broadcast and dual carriage in smaller television markets.

In recognition of the unique needs of small cable businesses and small broadcasters, the Commission should suspend digital television requirements for broadcasters serving smaller television markets until 2006 and forego imposing dual carriage requirements on cable systems that serve those markets. This would substantially alleviate many of the initial burdens small cable faces.

3. After the broadcasters return their analog spectrum, the Commission should not impose digital carriage requirements on small cable in smaller television markets.

Too many uncertainties exist today to try to craft a rule that will have value in several years. The industry has yet to settle upon a standard digital signal delivery format.[17] The technology needed and its costs for cable systems have yet to become fully identified. The high price of digital television sets[18] makes the rapid acceptance of digital television unlikely. Consumer electronics manufacturers have not completed a standard "that will allow digital television signals to be passed through cable set-top boxes to digital TV sets."[19] Resolution of these issues requires additional time. Rather than try to anticipate these developments, the Commission can rely on other existing and emerging forces.

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[17] *See* Russ Mitchell, *TV's great leap forward*, U.S. NEWS ONLINE (April 20, 1998) <http://www.usnews.com/usnews/issue/980420/20tv.htm>.

[18] *Id.*

[19] *See TV Set, Box Makers Working to Meet Nov. 1 Deadline*, BROADCASTING & CABLE CABLEDAY, (Cahners, Sept. 11, 1998).

The Commission should allow market forces and small cable's historic dedication to localism to dictate digital carriage by small systems in smaller markets. Small cable historically has supported, and continues to support, localism. Localism is an integral part of small cable's business plan. The Commission can expect that small cable will do everything possible to carry digital signals once broadcasters return their analog channels. It must remain up to each of the thousands of individual cable systems, however, to make the determination of when and how digital carriage becomes technically and commercially viable.

If the Commission must impose a carriage requirement on small cable, SCBA advocates the following: once the small cable system commences carriage of one digital broadcast signal, it must then carry all signals that the headend equipment can process (*e.g.*, all broadcast signals that use the same format or that use a compatible format). This would permit market forces and the laws of economics to dictate when small cable would begin digital broadcast signal carriage in smaller markets, but once a small system begins digital carriage, it could not cherry pick local signals.

D. The Commission Should Not Impose Any Digital Signal Must-Carry Requirement on Systems with 5,000 or Fewer Subscribers.

Regardless of the television market's size, the Commission should not impose digital carriage obligations on any small cable system with 5,000 or fewer subscribers.

1. High per subscriber cost of digital headend equipment mandates exemption.

The ability for small cable businesses to deliver digital product has become critical due to aggressive marketing of digital DBS products in rural and insular areas. Innovative small cable businesses have found ways to deliver digital product in many larger small

systems. Despite significant competitive pressures, the laws of economics, as applied to current technology, however, preclude digital capacity in many smaller systems today.

Many small systems have turned to Headend in the Sky ("HITS") as an economically viable way to deliver digital product. For most systems with 3,000 or fewer subscribers, however, the minimum average headend cost of $1,000 per digital channel makes HITS unaffordable. As a result, about 70% of the nation's cable systems cannot support digital technology today.

Carriage of digital broadcast signals will likely cost even more than HITS, warranting an exemption for systems that have even more than 3,000 subscribers. SCBA cannot provide information regarding the precise cost of headend equipment until the cable and broadcast industries resolve numerous technological issues. Nevertheless, the prospect of accommodating different digital broadcast formats will likely significantly increase the headend cost, warranting an exemption for those systems with 5,000 or fewer subscribers.

2. Exemption will provide meaningful relief for thousands of cable systems while impacting a low percentage of the nation's viewers.

Significant relief for systems with 5,000 or fewer subscribers would protect a significant number of small systems from unaffordable burdens, while impacting only a relatively small percentage of the nation's viewers. Nearly 80% of the nation's cable systems (almost 8,600) have fewer than 5,000 subscribers. Removing the number of small systems not independently owned or operated reduces that number. SCBA estimates that about 5,000 to 6,000 independently owned and operated systems have 5,000 or fewer subscribers.

Despite the significant number of small systems affected, providing relief to those systems would impact only a small percentage of the nation's cable subscribers. The Commission's *Small System Order* estimated that the more than 7,000 systems with 15,000 or fewer subscribers serve only 12.1% of the nation's subscribers.[20] SCBA estimates that independently owned and operated systems with 5,000 or fewer subscribers serve between 5 and 5.5 million customers.[21] Providing relief to this class of systems would only impact digital carriage for 7% to 8% of the nation's households.

Even if the Commission alters its digital policy with respect to these homes, that alteration will provide other significant benefits. It will avoid potentially untenable rate adjustments to pay for digital carriage and major disruption of service.

3. Competitive pressures and market demand will motivate small cable's transition to digital.

Digital DBS services have aggressively targeted areas served by small cable. These market forces require small cable to seek innovative and cost effective ways to provide digital programming. As previously discussed, many small cable systems have adopted HITS as a way to offer many new channels of digital programming to their customers. As noted, above, however, systems with less than 3,000 customers have difficulty affording the headend equipment costs necessary to launch HITS.

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[20] *Small System Order* at ¶ 33.

[21] SCBA bases this estimate on the number of systems in each system size classification listed in the *Television and Cable Factbook* (Warren Publishing, 1998) at I-97, assuming the average system size at the midpoint of the range. The total of the products of the average system size and the number of systems in that class is 8.1 million. That amount is then adjusted to remove subscribers of systems not independently owned and operated based on a comparison of total subscribers for systems with 15,000 and fewer customers and the Commission's *Small System Order* estimates.