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DIGITAL MUST CARRY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Carriage of the Transmissions)
of Digital Television Broadcast Stations)
)
Amendments to Part 76)
of the Commission's Rules)

CS Docket No. 98-120

COMMENTS OF

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Date: October 7, 1998

I file these comments on October 7, 1998, in the FCC's Notice of Proposed Rule Making on the Carriage of the Transmissions of Digital Television Broadcast Stations adopted July 9, 1998, CS Docket No. 98-120.

Good morning, Honorable Commissioners William E. Kennard, Susan Ness, Harold Furchtgott-Roth, Michael Powell, Gloria Tristani.

In your deliberations and hearings regarding the Must Carry Provisions of the Act and its consequences for the American consumer I urge you to keep in mind the purposes for which the Act and the FCC have been created.

I call your attention to the stated mission of the Federal Communications Commission, of which you are the Commissioners, and which I have included below:

Welcome to the FCC. The mission of this independent government agency is to encourage competition in all communications markets and to protect the public interest. In response to direction from the Congress, the FCC develops and implements policy concerning interstate and international communications by radio, television, wire, satellite, and cable.

Additionally, I call your attention to the following excerpt from a press release by the distinguished Chairman of the Commission, Mr. William Kennard, regarding digital television transition:

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“I have said many times that digital is the future of over-the-air television, and that the pace and direction of the transition to digital TV will be set by the private sector, by the marketplace and by competition.”

Finally, I call your attention to the purpose and goals of the Telecommunications Act of 1996:

The Telecommunications Act of 1996 is the first major overhaul of telecommunications law in almost 62 years. The goal of this new law is to let anyone enter any communications business -- to let any communications business compete in any market against any other.

The Telecommunications Act of 1996 has the potential to change the way we work, live and learn. It will affect telephone service -- local and long distance, cable programming and other video services, broadcast services and services provided to schools.

Please take note of the key sentences from the above statements

- “...to encourage competition in all communications markets and to protect the public interest”,
- “I have said many times that digital is the future of over-the-air television, and that the pace and direction of the transition to digital TV will be set by the private sector, by the marketplace and by competition.”,
- “ The goal of this new law is to let anyone enter any communications business -- to let any communications business compete in any market against any other.”

I urge you to keep the goals in mind as you seek to determine the responsibilities of cable television operators in the evolution toward digital broadcast television (“DTV”). Having watched the hearings on C-Span and read the Notice of Proposed Rule Making, CS Docket No. 98-120, it is evident that your task is extremely complicated by the fact that there are several special interest groups competing for a ruling that would favor their group, organization, or industry at the expense of their broadcasting colleagues, competing industries, or consumers in general.

The electronics industry wants a ruling that will accelerate the process of enticing (forcing?) the consumer to purchase their newest technological innovations. The National Association of Broadcasters wants a ruling to force cable television operators to forfeit their choices of programming in order to ease their burden of moving from analog to digital broadcasting. The non-commercial broadcasters want a ruling that protects their “right” to air time. The cable television operators want a ruling that allows them to operate their businesses and serve their customers according to the demands and constraints of the market.

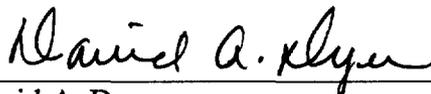
The fact is evident that Congress erred in passing mandatory cable carriage legislation rather than legislation eliminating cable monopolies. How can the continued existence of monopolies in the cable television industry possibly be consistent with the concepts of “competition” and “free enterprise” within the broadcast industry?

The elimination of monopolies in the telephone long distance markets, while possibly creating new problems to solve, nevertheless has resulted in a very competitive industry that has benefited the typical consumer. The same can be said about every other instance where competition has been allowed to replace monopolies or monopolistic environments or extensive regulation.

You list no less than seven proposals for the transition to digital television broadcasting. You recognize there will be "twice as many stations" during the transition. Is it the public's responsibility to bear the burden of cost to commercial broadcasters making the change from analog to digital? Is it the cable industry's burden? Is a change to digital technology such an important benefit to society that it cannot be completed through the processes of the market and competition? Is not the potential loss of stations such as C-Span, which is totally unbiased in its coverage of the political process and completely funded without public dollars, more important than the short-term profits of the broadcast or electronics manufacturing industries? Have we not learned anything over the years from over-regulation and special interest concessions?

You have published forty-seven pages in this Notice of Proposed Rule Making. Most of the pages deal with highly technical information that should rightly be of concern only to the providers of the service. The rest deal primarily with how to address the special interest concerns of the various industries involved with providing the service to the public. I submit that your only responsibility in this matter is determining how this transition affects the American consumer and his or her choices. The ideal solution to this problem would be de-monopolizing the cable industry and allowing competition. This would allow each cable company to carry a different mix of programming channels in accordance with its customer's desires. However, since this does not appear to be a viable option in the current circumstance, it would seem prudent to ask yourselves, while considering each alternative, Does this benefit the consumer or the company or industry involved? Will this enhance competition among the industries and among the companies within each industry? Will this benefit one party at the expense of another? In the answers to these questions and in the interest of the goals stated in your mission statement the "No Must Carry" Proposal is the only logical choice you can make.

Submitted by:



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