

G

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**TURNER BROADCASTING SYSTEM,  
INC., et al.**

**Plaintiffs,**

**v.**

**FEDERAL COMMUNICATIONS  
COMMISSION, et al.**

**Defendants.**

**Civil Action No. 92-2247 (and  
Consolidated Cases Civil  
Action Nos. 92-2292, 92-2494,  
92-2495, 92-2558)  
(SFW, TPJ, SS)**

**DECLARATION OF HOPE S. GREEN**

1. My name is Hope S. Green. I am the president of Vermont ETV. I have functioned in this capacity since 1980. From 1974 to 1980, I served as development director at KCTS, a public television station located in Seattle, Washington. Prior to that I spent several years as a consultant on development matters for KCTS. From 1966 to 1972, I worked at WGBH, a public television station located in Boston.

2. Vermont ETV is a statewide public television system. The system, originally licensed to the University of Vermont, began service in October

of 1967. In December 1989, Vermont ETV became an independent not-for-profit organization.

3. Vermont ETV operates four public television stations: Channel 33 in Burlington (WETK), Channel 28 in Rutland (WVER), Channel 20 in St. Johnsbury (WVTB), and Channel 41 in Windsor (WVTA). Together these stations serve virtually all of Vermont and parts of the neighboring states of Massachusetts, New York, New Hampshire and Maine. In addition, for many years the signal of WETK has been received over two Montreal cable systems. Montreal is about 80 miles from Burlington.

4. The two cable systems serving the Montreal market are Videotron and CF Cable. Videotron, a Canadian-owned cable system, is the larger of the two, with approximately 600,000 subscribers. Greater Montreal, with a population of just under two million, is significantly larger than the entire state of Vermont (560,000 persons). As of the end of 1989, approximately 8,000 Vermont ETV members (around one fifth of our total membership) subscribed to the Videotron system. These members accounted for approximately \$500,000 in annual membership income, or 10% of the total revenues of Vermont ETV. In addition, 14 Montreal businesses underwrote some of Vermont ETV's most important programming, accounting for approximately \$100,000 in support. This is almost one-third of Vermont ETV's total underwriting revenue.

5. In late 1989, Vermont ETV learned that the Videotron system was planning to drop WETK from its line up because continued carriage was likely to entail substantial copyright liability under new Canadian regulations. We mobilized a significant campaign of viewers and underwriters in an effort to deter

such a drop, and my staff and I worked around the clock on that effort.

Nevertheless, in late December, 1989, Videotron dropped the WETK signal.

6. The Videotron drop was devastating to Vermont ETV. While some Montreal households are capable of receiving our signal over the air, the quality of the off-air signal there is not good due to terrain shielding. Our experience demonstrates how massive the damage can be to a public television station if it is dropped by a cable company serving a large number of cable subscribers who constitute a significant percentage of the station's viewers.

7. At Vermont ETV, we immediately took a number of steps to try to reverse Videotron's decision and to counter the financial loss that we knew would result. Within the first week of being told that WETK would be dropped, I started making plans to cut our budget to reflect the lost income. By the beginning of 1990, I had decided that the prudent course would be to cut \$400,000 from the budget for each of fiscal years 1990 and 1991. The cuts included four positions (net) and the reassignment of remaining staff to share open positions. In addition, we froze hiring and eliminated almost all overtime with the exception of overtime needed to keep us on the air. We cut travel, purchasing, and non-broadcast special events to the absolute minimum, and we began to handle telemarketing and major mailings in house rather than through outside contractors. The stress on the employees was great and caused painful and expensive turnover.

8. During 1990, we were able to avoid any reduction in the quality or amount of Vermont ETV programming. Nevertheless, our weakened financial situation, further stressed by cuts in state funding, finally led us to cut back on the amount of programming we purchased from PBS. Although we had originally

signed up to take 100% of PBS programming, we became a "limited use discount" station for a year and purchased only a portion of the PBS programming. The negative financial effects of the Videotron drop were a significant factor in this decision, in that we were left in such a poor financial condition that we were unable to sustain the cut in state funding, as we normally would have been able to do.

9. We expended great efforts, together with Videotron, in attempting to resolve Videotron's copyright liability problem. Finally, through a change in the Canadian copyright rules and by installing new equipment to ensure that Videotron would receive a stronger signal from WETK, the problem was resolved. Happily, Vermont ETV was returned to the Videotron system in early 1991, approximately 13 months after it was dropped.

10. The financial loss to Vermont TV during the period it was not carried on the Videotron system can be seen from the decrease in Canadian viewer support during that time. In 1989 Canadian viewers contributed \$935,322 to Vermont ETV. In 1990, Canadian contributions dropped to \$779,210 (a drop of over 15% in giving). In 1991, when Vermont ETV was back on the Videotron system, Canadian viewers provided contributions of \$1,020,598. These figures are for all Canadian viewers. Undoubtedly, the drop in contributions from Videotron subscribers alone was a much greater percentage.

11. While the revenue losses noted above are significant, I firmly believe that the damage to Vermont ETV would have been much more substantial if the Videotron drop had lasted longer. Membership donations are crucial to Vermont ETV; they account for more than 45 percent of our revenue. A

number of Videotron subscribers continued to contribute to Vermont ETV in 1990, when they could no longer receive the WETK signal. However, our Videotron members were aware that we were fighting hard to regain carriage on the system. Many viewers who may have been willing to contribute to Vermont ETV for that single year, with the hope that the station would soon be restored, would probably have been much less inclined to continue to support WETK the next year or the year after that. After another year or two, I believe our contributions from the Montreal area would have shrunk much more. Very few people in Montreal can obtain a high quality WETK signal over the air. Eventually, Vermont ETV could have hoped to receive funds only from the subscribers to CF Cable and whichever Montreal businesses would have been willing to continue to underwrite programs when the great majority of Vermont ETV's previous viewers in Montreal could no longer receive the station.

12. While the situation in Montreal was not covered by the United States must carry laws, Vermont ETV's experience with the Videotron system clearly demonstrates the importance to all public television stations of carriage on cable systems. Simply put, public television's income depends upon its audience. Membership dollars are raised from viewers, and people who cannot watch a particular station are unlikely to support it. Corporate supporters ask for audience figures before deciding whether to underwrite. Auction donors give merchandise in order to have exposure to a large audience, and auction bidders must be able to watch the program. If the revenue loss is large enough, the quantity and quality of

programming will eventually suffer. A decline in revenues means we can afford less programming; and, since viewers contribute because of affinity to our programming, a decline in programming leads to further decline in revenues.

13. In Vermont itself, over 100,000 homes receive Vermont ETV's signal through cable. Coverage over the air is limited because of the mountainous terrain of the state. Without cable carriage in this state, Vermont ETV would be at a very significant disadvantage. Fundraising, and consequently programming, would be severely affected.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 15 1995.



Hope S. Green  
President, Vermont ETV



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**DECLARATION OF DAVID HOSLEY**

1. My name is David Hosley. I am General Manager of KCSM, a public television station located in San Mateo, California. I have held the position of General Manager since October, 1992. From June, 1990 to August, 1992, I held the position of Vice President/General Manager at KQED, a public television station located in San Francisco, California. Prior to that, I was Station Manager at KQED-FM from August, 1987, to May, 1990.

2. KCSM, Channel 60, is a noncommercial educational broadcast television station licensed to the San Mateo County Community College District. KCSM first went on the air in October 1964, serving the San Francisco-Oakland-San Jose market. Over 27,500 members of the community contributed to KCSM during the past year.

3. KCSM's primary activity is to broadcast college-credit telecourses for the San Mateo County Community College District and eight San Francisco Bay Area community colleges. KCSM broadcasts approximately 44 telecourses each semester. Approximately 45 percent of our 21-hour broadcast day is devoted to college credit telecourses. These telecourses are offered by the College of San Mateo and eleven other colleges in the nine-county Bay Area. KCSM broadcasts lower division college-credit telecourses, all of which are transferable to other community colleges and to four-year colleges and universities.

4. Because telecourses meet the same requirements as on-campus traditional courses, students can use telecourses to begin, continue, or complete their college education at home or work. KCSM sees its role as a fourth campus of the San Mateo County Community College District. The broadcast of educational telecourses to supplement on-campus classes and training is particularly important due to the decreasing levels of state funding for education in California.

5. With the growing population of minorities and single mothers in the San Francisco Bay Area, KCSM continues to increase its programming targeted to these groups. KCSM is responding to these needs not only with its college credit telecourses, but with its general educational programming as well. To accomplish this goal, the Program Director and other station management work closely with the station's Community Advisory Committee to identify relevant issues for program production and broadcast. KCSM produces more local programs than any other public television station in California.

6. There is no significant duplication of educational programming offered by KCSM in the San Francisco area. KCSM works very hard to differentiate itself from the other public television stations. As explained above, almost half of KCSM's programming consists of telecourses, almost all of which are unique to KCSM. In addition to locally produced programs, KCSM provides viewers with

high quality PBS and syndicated programming. However, KCSM offers most of its nationally distributed programming on an eight-day delay from the PBS scheduled feed. Additionally, KCSM continues to seek ways to differentiate its services, such as providing services to people who speak English as a second language and those who want to learn foreign languages.

7. KCSM is a qualified noncommercial television station as defined in subsection (1)(1) of Section 5 of the 1992 Cable Act. KCSM is a local station as defined in subsection (1)(2) of section 5 of the Act with regard to 52 headends of cable systems in the San Francisco Bay area, including the cable systems discussed in this declaration.

8. Many of the adverse carriage actions KCSM suffered occurred before I joined the station. However, I am generally familiar with those actions and their effects on the station, through my review of station records and of records sent by station personnel to the Association of America's Public Television Stations, and through knowledge I have gained through staff members who were with the station prior to 1992.

9. A large number of cable systems dropped KCSM after the must carry rules were struck down. Two major sets of drops from Viacom systems were particularly harmful to the station. (Viacom is also known as Tele-Vue Systems and as Television Signal Corporation in certain areas.) Initially, in 1986, Viacom dropped KCSM from several of its systems, including its large San Francisco system. This occurred in the summer, shortly before the fall semester was to begin. Then, in 1989, Viacom dropped KCSM in the North Bay region, including Marin County, American Canyon and Napa in Napa County, Pinole and Pittsburg in Contra Costa County, and Dublin in Alameda County. I have attached several letters and a newspaper article discussing the 1986 Viacom drops as Exhibit 1. I have attached materials discussing the 1989 Viacom drops as Exhibit 2.

10. Each of the two sets of Viacom drops left KCSM seriously weakened. Many viewers could no longer access KCSM's programs, including its for-credit telecourses. The 1986 Viacom drops led to the loss of approximately half of the paying enrollment for the station's telecourses. Other viewers who were not enrolled for course credit also lost the opportunity to benefit from the telecourses. The 1989 drops also had a sharply negative impact on KCSM, particularly in Marin County. Following the 1989 drops, KCSM fell from the second largest public television station in the San Francisco market to the third largest in the market. The two sets of Viacom drops resulted in KCSM's loss of service to more than 200,000 cable subscribers.

11. In addition to the Viacom drops, KCSM was dropped from a number of other cable systems in the late 1980s and early 1990s. Concord Cable in Concord, TCI in San Mateo and Millbrae, and the Televents system in Martinez dropped the station in 1986. In 1988, KCSM was dropped by United Cable Television in Foster City, and by Tele-Vue Systems in Livermore. In 1989, several TCI Cablevision systems (including Hayward, San Leandro, and Castro Valley) dropped KCSM. In September 1989, Bay Cable dropped the station in Berkeley. In 1990, KCSM was dropped by Contra Costa Cable in Pinole; by Crockett Cable Systems in Crockett; and by Tele-Vue Systems in Petaluma. In 1991 KCSM was dropped by Televents of East County in Brentwood and by Post-Newsweek Cable in Union City.

12. As a result of the drops, KCSM experienced large revenue losses. The station lost a number of members, particularly in the San Francisco and East Bay areas. For example, a memorandum in station files, which was forwarded to APTS, indicates that the two sets of Viacom Cable drops alone caused KCSM a loss of approximately 2,000 members and a revenue loss of \$90,000 a year. See Exhibit 3 to this declaration, which describes these revenue effects and other difficulties KCSM had experienced as a result of the drops. Material we forwarded

to APTS indicates that the Televents (Martinez) drop cut us off from 12 to 15 percent of our East Bay supporters. See Exhibit 1.

13. While the station's loss of revenue was very significant, the greatest loss resulting from the drops KCSM experienced was the loss of access by cable viewers to the station's unique instructional programming. For many Bay Area students, especially working adults, women, and minorities, television instruction offers an opportunity for diversified course experiences. This instructional programming is a cost effective means of earning college credits. It also provides opportunities for students who otherwise would be unable to attend traditional in-class courses, and provides viewers with an opportunity for active learning. Finally, it responds to the increasing educational needs of diverse population groups. When KCSM was dropped, viewers did not have access to these resources, sometimes losing courses in mid-semester.

14. At the time I arrived at KCSM in October 1992, the station was in very weak financial condition and in danger of being shut down. I perceived a need for various changes, including extending the reach of the station by obtaining carriage on a number of cable systems. Citing the new must carry statute, I requested carriage on a number of cable systems within a 50-mile radius. As a result of these requests, KCSM was restored on several systems that had dropped us earlier, such as Contra Costa Cable and Crockett Cable.

15. While some systems granted carriage reasonably promptly, others resisted, generally without citing a valid reason. Viacom in particular refused to carry KCSM on many of its systems. KCSM filed several complaints with the Federal Communications Commission against Viacom and various other systems. In 1993, the FCC ordered the following systems to carry KCSM: Chambers Cable (Novato), Coast Cable-Western Communications (San Jose), Horizon Cable TV Video Engineering (Fairfax), Post-Newsweek Cable (Union City); Televents

(Brentwood); Viacom (San Francisco). Viacom eventually agreed to carry KCSM in several communities, and some of our complaints were dismissed on that basis. But Viacom continued to resist carriage on other systems. In December, 1994, the Commission ordered Viacom to carry KCSM on various systems in the East Bay area. Copies of documents relating to KCSM's efforts to obtain carriage on various Viacom systems are attached as Exhibit 4.

16. KCSM requested carriage on TCI Cablevision in Sunnyvale in May 1993 and Fremont in September 1993. Despite numerous requests, TCI failed to respond until after the station filed a petition with the FCC. TCI finally added KCSM in Sunnyvale and Fremont in February, 1994. I have attached several documents relating to these requests as Exhibit 5. Even though I requested carriage on numerous cable systems shortly after the must carry statute went into effect, it was not until late 1994 that the station was finally granted carriage on all the systems.

17. [REDACTED]

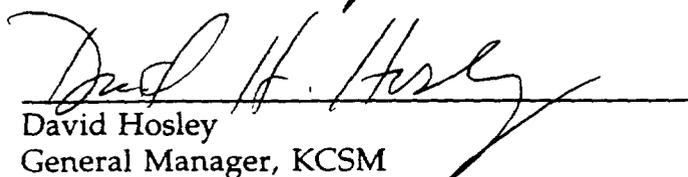
The station's membership has also doubled, growing from 12,500 contributors in January, 1993 to 27,500 contributors in May, 1995. Enrollment in our telecourses has increased significantly. While other changes have contributed to this growth, I believe that the must carry laws were a major factor. Our ability to increase our audience through access to a large number of new cable subscribers has been instrumental in allowing us to reach more potential contributors. Our increased audience and revenue have allowed us to produce more local programs.

18. If must carry laws were repealed, I believe there would be severe damage to KCSM, including a loss in the ability to serve a broad population of students in the Bay Area. I believe we would soon lose 25 percent or more of our members, which in turn would result in a revenue loss of approximately

\$300,000. Particularly in view of the decreasing levels of state education funding in California, this would be a serious blow. Because of terrain limitations in the area, cable is a very important way for the station to reach viewers. Without must carry, KCSM's services would likely become marginal, and the station would again face the possibility of closing its doors.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 22, 1995.

  
\_\_\_\_\_  
David Hosley  
General Manager, KCSM



# Bay Area Systems Begin Dropping Broadcast Stations

## Duplicated Signals Are the First To Go

By Linda Haugsted

SAN FRANCISCO—While the debate rages in Washington over adoption of a new must-carry rule to replace the one declared invalid last year, cable operators in the TV-entertained San Francisco area have been moving aggressively to drop broadcast signals from their systems and replace them with satellite-delivered cable services.

And even if the Federal Communications Commission this week adopts a modified version of the must-carry rule, the new regulations would not affect the systems, because the changes they have made would be allowed under the proposed new rule.

Operators said that even with the changes, they still are carrying more broadcast stations on their systems than would be mandated under a proposal worked out by cable and broadcast industry trade groups.

They said that their customers have dictated what would be dropped and added in their communities, although operators said they retained some stations of low viewership because of those stations' specialized content.

Ernest Nelligan, president of Concord TV Cable, said once the old must-carry rule was overturned, he decided that two of the system's four Public Broadcasting Service channels would be dropped from its line-up of 18 off-air. He also wanted to drop at least two commercial stations. A subscriber survey helped determine which services would be eliminated.

Mr. Nelligan said Concord dropped KOEC-32, a San Francisco public station that was duplicative of its parent KOED, which was retained. Also eliminated was PBS station KCSM-60 of San Mateo. Both were ranked the least viewed of the PBS stations. Letters initially protested the elimination of the latter, with one subscribers detailing, in a long letter to the system, the shows and college courses he felt were unique to the station, Mr. Nelligan said. The system's personnel checked the letter and informed that subscriber that many of his listed shows were available on other public stations.

Concord also dropped a duplicate ABC affiliate, KNTV-11 of San Jose. And when KBOF-38, operated by religious broadcaster Dr. Gene Scott, lost its license and went dark for one day, Concord decided not to resume its broadcast, added Mr. Nelligan. But the system kept two broadcast stations which had less viewers than KNTV or KBOF because those stations carried Spanish and Asian-language programming. Mr. Nelligan said his system is "obligated to perform in those narrowcast capacities."

The system has added to its line-up the Discovery Channel, which was the top vote-getter among subscribers and which shares channel space with Home Shopping Network; Nickelodeon, Arts & Entertainment and Headline News. Mr. Nelligan said those subscribers who took the time to respond to the changes were negative but a few thanked the company for the new services. The system has not experienced much change in its 38,000-subscriber base, he said.

In nearby Martinez, the Televents system, which carried 17 off-air, also dropped KCSM-60 and KNTV-11. The system's community affairs director Arney Stone said the changes put the system in a "much better position to respond to community needs." The system's franchise area, which Ms. Stone called an afflu-

ent, well-read community, are better served by adding pay service American Movie Classics and replacing the duplicative PBS station with C-SPAN II, she said.

The changes pitted the system against one prolific letter writer who opposed the deletion of KNTV. He wrote to all local papers, legislators and national trade press, as well as the system, decrying the action. Ms. Stone said in preparing a response to the subscriber they determined the writer had worked as a consultant on video productions for the ABC affiliate.

Ms. Stone said the system has "taken it easy" on introducing new services and has received little negative response from the general population. The proposed maximum of channels devoted to broadcast carriage would not require reversal of any of the changes; in fact Ms. Stone said Televents is continuing to look at changes in its channel lineup.

Channel changes have also been made by Gilcable and Viacom systems. Other San Francisco area systems, some of which have as many as 18 off-air signals, are still surveying customers for future channel preferences.

Representatives of the deleted stations have visited the systems in unsuccessful efforts to re-establish their channels, according to spokespersons for the systems and the broadcasters.

Claire Mack, community affairs director at KCSM-60, said her station has written to Televents headquarters in Denver to plead for reinstatement and has contacted federal legislators in hopes they will provide public station protections if a must-carry plan is adopted by the FCC this week.

Meanwhile, the station is "going through hell," she said. The Viacom deletion has cost the PBS Station 15 to 20 percent of its San Francisco subscribers, and Televents cut them off from 12 to 15 percent of their East Bay supporters, Ms. Mack said. The subscribers had paid through the year, but the station stands to lose \$15 to \$30 per subscriber per year from the loss of those broadcast areas during the next subscription drive, she added.

"We received no prior notice of their intent. We found out through subscribers," Ms. Mack said.

"I'm not too excited about losing subscribers, but we're also losing viewers, viewers to whom we were providing a service," added Wendell Jones, program director. "That's the crime."

KCSM-60 offers many telecourses from its licensee, the San Mateo Community College district. The station's deletion will reduce the school's average daily attendance funds due to the decreased use of its telecourses. Ms. Mack added.

"Maybe we should get the mayors' wives to sign up for telecourses so they can lobby their husbands for us," Mr. Jones said ruefully.

Officials at KNTV did not respond to calls from Multichannel News. □

TO: VIACOM CABLEVISION  
2075 Folsom  
San Francisco, CA, 94110

ATTACHMENT 2  
August 5, 1995

FROM: John Mackinnon  
David Cole  
20 Broderick st.  
San Francisco, CA 94117

KCSM

I am writing to object to the recent changes made in the local programming schedule by VIACOM CABLEVISION.

I am very upset that these changes have been made without any advance notification to the viewers or giving the viewers a chance to make their wishes known.

The most immediate complaint is that KCSM has been removed entirely. KCSM is the only station I know of available in the SF area which offers actual college credit classes over the air. -It has been replaced with the DISCOVERY CHANNEL, which seems to have very good programming, but what about KCSM ?

Another complaint is that my favorite PBS station, KTEH from San Jose has been limited to the hours of 6 PM to 12 Midnight. When I was watching one of my favorite programs last night which normally goes from 11 PM until well past midnight, when midnight came along, boom it was cut off and replaced with more disco dancers. Also, during the day some very good programming, for example WALL STREET WEEK, WASHINGTON WEEK IN REVIEW and other great programming has been replaced with these REAL ESTATE SEMINAR, LAS VEGAS CASINO GAMBLING, and GET RICH QUICK SCHEME SEMINAR advertisements. Which in my opinion are garbage and basically simply 30 minute commercial advertisements. It really upsets me that they are removing intelligent programming in favor of these money grubbers, which are basically con games, and I hope that public opinion can have some influence on the subject.

Will you please notify me as to what I can do to insure that good intelligent programming will not be replaced by programming which is solely for monetary gain.

Perhaps one solution is to allow competition in this area. It seems to be a monopoly at the present time. Perhaps by allowing viewers alternative choices would solve this problem.

David L. Cole

cc: KTEH television station  
~~KCSM television station~~  
SF Board of Supervisors  
Federal Communications Commission, Washington, DC

APTS 005463

ROBERT J. MASI, M. D.

455 UPPER TERRACE / SAN FRANCISCO, CA 94117

August 15, 1986

VIACOM CABLE TV  
Marketing Department  
2055 Folsom Street  
San Francisco, CA 94100

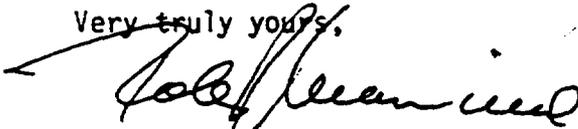
Dear Sirs:

I wish to strongly object to the arbitrary removal of KCSM, as well as the San Jose Business channel, from the VIACOM Cable TV repertory. To my knowledge, VIACOM never asked its subscribers about discontinuation of station coverage but indirectly informed subscribers several days before the change by enclosing a new schedule in the August billing.

Unfortunately, the current situation with cable TV in San Francisco leaves the consumer little recourse. There is presently no other choice of a cable TV system to which one might subscribe. Discontinuing the VIACOM service as a protest is also untenable for me because of poor antenna reception in the immediate vicinity of the Mt. Sutro TV tower.

In the interests of serving your subscribers, I wish that you would reconsider your decision. There are certainly more than enough vacant TV channels on VIACOM to accomodate all our local stations.

Very truly yours,



Robert J. Masi, M.D.

RJM/ktb

cc: KCSM ✓  
Board of Supervisors

APTS 005464

Tele-Vue Systems, INC. 30000  
Pittsburg, CA  
Antioch, CA

KCSM

D.L. PROWS, D.D.S.

★ 25,000 subs  
Previous July 24, 1986

NAWSF-CAT  
Mr. Dale Rhodes, Vice President  
Planning and Research  
N. A. P. T. S.  
Suite 410  
818 N Street, N. W.  
Washington D. C. 20036

Dear Mr. Rhodes:

This is in regards to the taking away...without due notice whatsoever...of one of our favorite program channels: #60, KCSM, with totally inadequate substitution or replacement facility and incompetent service instructions to restore this most wonderful reception...recently, by VIACOM cable system in the Concord-Antioch Bay area!!

I believe it is very dishonest, to say the least, that they should elect to "steal" away from us a channel of public-interest and private membership sponsorship which we have paid for and depend upon for programs of intellectual quality...simply to satisfy their programming desires!!

If you can do anything about this very sad situation, please do so, won't you?

The junk and unwholesome programming offered by these people is certainly a poor substitute for what many...many of us subscribers would like to receive! Not all of us are "porno freaks"...or sport-nuts, or of Disney status...not to mention the "Playboy" garbage!! Especially when it is quite obvious/US the cable people are seeking mostly to sell more equipment and thereby increase their already greedy...profits!!

Thank you for your attention and consideration to my complaints...and hopefully, you will muster the courage to do something about it!

Sincerely,

D. L. Prows, DDS  
D. L. Prows, DDS  
DLP/hj  
cc Claire Mack, FCC

APTS 005466



Viacom Cablevision

JAN 25 1989

January 24, 1989  
R-106

Michael Kimball, General Manager  
KCSM-TV  
1700 W. Hillsdale Blvd.  
San Mateo, CA 94402

Dear Mr. Kimball:

Effective March 1, 1989, Viacom Cablevision will no longer offer KCSM-TV to its customers in the North Bay Region. Due to the configuration of our microwave distribution system, deletion of KCSM from our Headend will affect Viacom systems located in Petaluma, Marin County and West Contra Costa County.

In place of KCSM, we will be carrying KRCB-TV (Ch. 22), the PBS affiliate based in Rohnert Park.

Sincerely,



JEFFREY BUTLER  
System Manager

JB:ja

1111 Andersen Drive  
San Rafael  
California 94901

Telephone  
415 459-5333

A Division of  
Viacom Intern

KCSM 000373



1700 W. Hillsdale Blvd. San Mateo, CA 94402



(415) 574-642

March 22, 1989

Mrs. Doris McDonald  
#5 Altamira Avenue  
Kentfield, CA 94904

Dear Mrs. McDonald:

Many thanks for your phone call regarding the removal of KCSM Channel 60 from your cable system.

In researching our files, I did find a letter on record from VIACOM informing us of KCSM's impending removal from their cable system. The letter was dated January 24, 1989, and it was addressed to our then out-going general manager, Michael Kimball.

Since the letter arrived during a critical transition period for the station, the information was not transferred to the current acting general manager, Richard Zanardi. As a result, our staff was unable to act on this before March 1, 1989, since we did not have the information. We found out through the phone calls of our members and viewers in the North Bay region.

It is unfortunate and frustrating for the KCSM staff, as well as for our viewers, that the information was not communicated properly. If we had known, we would have contacted you long before this. However, KCSM will continue in our present efforts to be placed back on the VIACOM cable system as soon as possible.

Again, with the support of letters and phone calls to VIACOM and your local city and state representatives, we hope that KCSM Channel 60 will once again be available on your cable channel.

I appreciate your calling to clarify this matter with KCSM. Please feel free to contact me at (415)574-6586 if you have any other questions.

Sincerely,

Guida Leicester  
KCSM Membership Services Coordinator



1700 W. Hillsdale Blvd. San Mateo, CA 94402



(415) 574-6427

March 27, 1989

Mr. Jeffrey Butler, System Manager  
VIACOM CABLEVISION  
1111 Andersen Drive  
San Rafael, CA 94901

Dear Mr. Butler:

KCSM deeply regrets your decision to remove Channel 60 from VIACOM Cablevision. We initially found out about this action through phone calls and letters KCSM began receiving from irate viewers after March 1, 1989.

In researching our files last week, a letter was found from VIACOM informing us of KCSM's impending removal from your cable system. The letter was dated January 24, 1989, and it was addressed to our then-outgoing general manager, Michael Kimball.

The letter arrived during a critical transition period for our station--within days of Mr. Kimball's departure--and the information was not transferred to me. Due to this unfortunate circumstance, our staff was unable to act on KCSM Channel 60's behalf before March 1, 1989.

However, I would now like to take this opportunity to ask you to reconsider this decision and to place KCSM Channel 60 back on VIACOM cable.

There are only five PBS stations in the Bay Area compared to over 30 commercial stations now available on cable. Contrary to what you may think, each public television station does offer unique programming to its viewers.

KCSM's programming includes: Earlier broadcasts of award-winning news and information programs such as MAC NEIL/LEHRER HOUR and WASHINGTON WEEK IN REVIEW; instructional television college credit courses--a total of 42, with new educational programs being added each semester; KCSM's own locally-produced program LEGAL CURRENTS, a call-in public affairs show which allows viewers to get answers from local prominent attorneys to their legal questions.

In addition, we broadcast all our programs promptly with no interruption. It has always been our policy not to run marathon pledge drives nor auctions. However, like any other PBS station, we do rely on our viewers for financial support. Many of our members live in the Marin, Petaluma and West Contra Costa counties.

(continued)

KCSM/VIACOM  
Page 2

We support VIACOM's decision to add KRCB Channel 22 to your system-- but not at the expense of sister public station Channel 60. Education television is a vital source to North Bay viewers. We feel that a variety of quality public television stations should be made available to the community.

Please reconsider your decision. I will be happy to discuss this with you at your convenience. You may reach me at (415)574-6586. I look forward to hearing from you soon.

Sincerely,



Rick Zanardi  
KCSM Acting General Manager

cc: William J. Filante, MD  
Assemblyman 9th District  
30 North San Pedro Road, Ste. 135  
San Rafael, CA 94901

KCSM 000409

**Please continue to report cable drops and shifts.**

It is still very important that public station managers keep an eye out for cable systems threatening to or actually dropping your station or shifting it to a less desirable channel allocation. If your station has not already reported your cable system drops, shifts or threats to NAPTS, please fill in the following. If you have already reported this data, you do not need to return this form. Evidence of drops and shifts is essential in arguing for regulatory protection to insure public television stations' access to cable audiences.

APTS 003925

| System Names     | Location and mileage from headend | Date of Drop  | Date of Shift                       | Shifted from to | Partial Coverage/Shared Channel (describe)                        | Threat (describe) |
|------------------|-----------------------------------|---------------|-------------------------------------|-----------------|---|-------------------|
| 1. <u>Viacom</u> | <u>International Marina</u> ✓     | <u>3/1/89</u> |                                     |                 |   |                   |
| 2. <u>"</u>      | <u>Dublin</u> ✓                   | <u>"</u>      |                                     |                 |   |                   |
| 3. <u>"</u>      | <u>American Canyon</u>            | <u>"</u>      | <u>where is Am. Canyon, really?</u> |                 |   |                   |
| 4. <u>"</u>      | <u>Pinalte</u> ✓                  | <u>"</u>      |                                     |                 |   |                   |
| 5. <u>"</u>      | <u>Pittsburgh</u> ✓               | <u>"</u>      | <u>Partial Restore</u>              |                 | <u>6AM to 12M</u><br><u>3AM to 6AM shift or share</u>             |                   |
| 6. <u>"</u>      | <u>Contra Costa</u> ✓             | <u>"</u>      | <u>where in CC County</u>           |                 | <u>Concord, E. Bay, Pleasant Hill, Richmond, San Pablo, Ukiah</u> |                   |

Call Letters & Market KCSM - San Francisco Bay Area  
 Licensee Type PBS - University License  
 Licensee Name SAN MATEO County Community College District  
 Contact Person Claire Mack / Richard Zarrod  
Com. Relations Dir

**Return to:**  
 Bernadette McGuire  
 Research Director  
 National Association of Public Television Stations  
 1350 Connecticut Avenue, NW, Suite 200  
 Washington, D.C. 20036  
 (202) 887-1700

17



The Cable deregulation in 1986 resulted in KCSM getting dropped or given limited carriage by many San Francisco Bay Area Cable Companies. This trend in the Cable industry has been directed at small PBS stations. The dropping of the smaller PBS stations by Cable Franchises has limited the financial growth of smaller stations like KCSM.

The first Cable Franchises to drop KCSM were Viacom Cable - San and Viacom Cable - Marin, California. This action caused KCSM a membership loss of approximately 2000 members and a revenue loss of \$90,000 a year. Members obviously would no longer subscribe if the signal was no longer available.

A second problem KCSM experienced with local Cable Franchises was that TCI Peninsula Cable - San Mateo and United Artist Cable - Hayward, which services Foster City, constantly removed KCSM from the their schedule and made us share the carriage with any programming they deemed appropriate.

The only new Cable Francise carrying KCSM is Western Cable - Half Moon Bay, based in El Granada, California. KCSM has had limited success in getting cable carriage on the larger cable systems.

A third problem KCSM has with local Cable Franchises is that they don't notify us of changes. We usually are informed of these changes through disgruntled viewers. Many of whom have purchased Cable to enroll in our College Credit Courses.

Our viewers are effected when KCSM is dropped from the Cable Systems in the following ways:

- 1) Viewers lose the continuity of their telecourses. 2) Viewers who watch KCSM, no longer have access to our programming.
- 3) Viewers have only the larger PBS stations and their affiliates to choose from.

KCSM is effected in the following ways:

- 1) KCSM's audience is limited. 2) KCSM has experienced huge revenue losses. 3) KCSM's ability to contribute to the Bay Area community is limited in its open circuit and cable coverage.



1700 W. Hilldale Blvd San Mateo, CA 94402

(415) 574-8586

FAX: (415) 574-8675

(415) 574-8427

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KCSM

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- 2) KCSM has experienced huge revenue losses.
- 3) KCSM's ability to contribute to the Bay Area community is limited in its open circuit and cable coverage.

Public Broadcasting from the San Francisco Peninsula





1700 W. Hillsdale Blvd. San Mateo, CA 94402-3784



(415) 574-6586

FAX: (415) 574-6675

(415) 574-6421

November 25, 1992

Tim Rae, General Manager  
Viacom Cablevision of Marin, American Canyon, Marin City, Napa  
Valley and Petaluma  
111 Anderson Drive  
San Rafael, CA 94901

Dear Mr. Rae,

Pursuant to Section 5 of the Cable Television Consumer Protection and Competition Act of 1992, § 5 (to be codified at 47 U.S.C. § 615) ("1992 Cable Act" or "Act"), I hereby request carriage of KCSM on Viacom Cable San Francisco. KCSM is a qualified local noncommercial television station entitled to carriage under Section 5 of the 1992 Cable Act.

Under the terms of the Act, KCSM's rights become effective December 4, 1992. Accordingly, I request that carriage commence either on December 4 or on a date thereafter mutually agreed upon by representative from KCSM and Viascom Cable San Francisco.

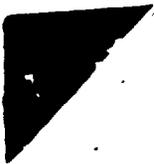
Pursuant to subsection (g)(5) of Section 5 of the Act, I would like to discuss with you an appropriate channel position for the signal of KCSM with the goal of reaching a mutually agreed upon placement. If we are unable to reach agreement, I have the option of requesting carriage on the cable system channel number on which KCSM is broadcast over the air, or the channel on which KCSM was carried on July 19, 1985.

If you have any question regarding this request for carriage and channel positioning, please contact me immediately. If I do not hear from you, I will expect that you will honor the carriage rights of KCSM as of December 4, 1992.

KCSM differentiates itself from other stations in two significant ways:

1. We devote 45% of our schedule to telecourses which give listeners an opportunity to continue a lifetime of learning and obtain college credit, if they wish.

APTS 011565



2. Last year, KCSM became a PBS limited use discount station, which means that we cannot duplicate the same night carriage of other PBS affiliates. We continue to seek ways to differentiate our programming, including service to people who speak English as a second language and those who want to learn foreign languages.

Sincerely,

David H. Hosley,  
General Manager

DHH/clm

APTS 011566

**K****C****S****M**

1700 W. HILLSDALE BOULEVARD, SAN MATEO, CALIFORNIA 94402-3784 TV PHONE: 415 574 6586 FM PHONE: 415 574 6427 FAX: 415 574 6

May 13, 1993

Kurt Jorgenson, Vice President  
Viacom Cable  
PO Box 13  
Pleasanton, CA 94566-0811

Dear Mr. Jorgenson,

I have received your letter of April 30, 1993 saying that KCSM may not be entitled to carriage because it does not deliver the minimum signal required by the FCC to your headend for the Pittsburg and Antioch systems.

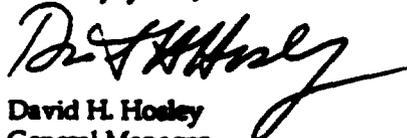
I am reaffirming KCSM's request for carriage. I want to begin negotiations for carriage and will meet with you personally to accomplish that, if needed.

The following is relevant to signal consideration:

1. KCSM desires to serve the above communities.
2. You do not report what measurement you did obtain, nor the measuring equipment used to do so.
3. The FCC did not list standards for non-commercial educational stations. The standards you probably used were for commercial stations.
4. Equipment used in the testing can make a great difference in the results. A 12 element "Yagi" antenna will likely have significant improvement, and a "cut" antenna may have even greater results.

Please respond to the above in writing or contact me directly to begin negotiations.

Sincerely yours,

  
David H. Hosley  
General Manager

APTS 010922

**K****C****S****M**

1700 W. HILLSDALE BOULEVARD, SAN MATEO, CALIFORNIA 94402-3784 TV PHONE: 415 574 6586 FM PHONE: 415 574 6427 FAX: 415 5

August 30, 1993

Kurt E. Jorgensen  
Senior Vice President  
Viacom Cable  
PO Box 13  
Pleasanton, CA 94566-0811

Dear Mr. Jorgensen,

Under the 1992 Cable Act, I am requesting must carry status on your East Bay cable system, serving Pleasanton, Livermore, Dublin, San Ramon, Sunol, and surrounding areas.

KCSM is a qualified noncommercial educational station eligible for must carry status. We do not substantially duplicate the programming of other NCE's in the area due to 40% of our schedule being devoted to telecourses and our status as a limited use discount PBS affiliate, which requires us to delay the limited amount of PBS programming we carry by eight days from the national feed. I would like to discuss with you an appropriate channel position under the rules developed after passage of the Act.

Thank you very much.

Sincerely yours,



David H. Hosley  
General Manager

KCSM 000721

**K****C****S****M**

700 W. HILLSDALE BOULEVARD SAN MATEO, CALIFORNIA 94402-3784 TV PHONE: 415 574 6586 FM PHONE: 415 574 6427 FAX: 415 574

October 21, 1993

Kurt E. Jorgensen, Senior Vice President  
Viacom Cable  
PO Box 13  
Pleasanton, CA 94566-0811

Dear Mr. Jorgensen,

I am faxing you this letter because we have two requests pending with Viacom systems and have been waiting a long time for a response.

I sent you a letter, which I'm also faxing, on August 30 of this year requesting carriage on the system serving Pleasanton, Livermore, Dublin, San Ramon, Sunol and surrounding areas. I have received no response at all to that request.

We have heard from Tim Rae via the telephone on our request for carriage on the systems served by your Marin headend, and bought and installed, with excellent assistance from the Viacom engineering staff, an antenna that improved our signal and which Mr. Rae reports is delivering a quality signal. He has asked for additional time since then to decide what channel to assign KCSM and to further notify customers. He has suggested a start date in late December, two months from now. I have received none of this information in writing.

I understand that you've had many requests and difficult negotiations underway. And we have been patient in waiting for response. However, the bulk of that activity is past and I need a timely commitment regarding these requests. I am reasserting KCSM's must carry rights on these two systems and further requesting a written reply, by fax or mail, by 5 p.m. on Tuesday, October 26, 1993. It would be acceptable to me if your response on the Marin matter be in the form of a letter to the F.C.C., which would update your September letter notifying them that the parties were negotiating in good faith. While I am willing to accept a December start for KCSM, I need to know that it is a firm commitment now. A similar timeline for the other system serving the Pleasanton area is acceptable, pending channel assignment agreement.

My fax number is 415-574-6675. Direct phone line is 415-358-6835.

Sincerely yours,

  
David H. Hosley  
General Manager

KCSM 000718



### Jurisdiction

The Commission has jurisdiction over this Petition and over VIACOM CABLEVISION to Section 5(j) of the 1992 Cable Act.

### Qualifications to Exercise Rights Under Section 5

KCSM is licensed by the Federal Communications Commission as a noncommercial educational television broadcast station. KCSM is owned and operated by the San Mateo County Community College District, which is a public agency operating under the laws of the San Mateo County Community College District. KCSM is eligible to receive a community service grant from the Corporation for Public Broadcasting on the basis of the formula set forth in Section 396 (k)(6)(B) of the Communications Act. Accordingly, KCSM is a "qualified noncommercial educational television station" under Section 5(1)(1) of the 1992 Cable Act.

VIACOM CABLEVISION is a cable system generally serving Fairfield, CA. The principal headend of VIACOM CABLEVISION at 751 BELMONT AVENUE, PINOLE, CA 94564.

KCSM's Grade B service contour, as defined in 47 C.F.R. § 73.683(a), encompasses the principal headend of VIACOM CABLEVISION.

KCSM is "local" as defined in Section 5(1) of the 1992 Cable Act.

### Denial of Carriage Under Section 5

By letter to VIACOM CABLEVISION November 25, 1992, KCSM requested the VIACOM CABLEVISION carry KCSM's signal pursuant to the requirements of Section 5 of the 1992 Cable Act. The letter is attached hereto in Attachment A

By letter dated, December 1, 1992 VIACOM CABLEVISION denied the request for carriage made by KCSM. The letter is attached hereto in Attachment B.

POST VIACOM CABLEVISION failed to comply with the signal carriage requirements of Section 5 of the 1992 Cable Act. KCSM respectfully requests that:

### Relief Requested

a. The Commission rule that Respondent has failed to comply with the carriage requirements of Section 5 of the 1992 Cable Act and issue an order requiring VIACOM CABLEVISION to carry KCSM TV Channel 60 pursuant to the terms of that section.

Respectfully submitted,

David H. Hosley,  
GENERAL MANAGER  
KCSM TV CHANNEL 60  
1700 W. HILLSDALE BOULEVARD  
SAN MATEO, CA 94401

JANUARY 13, 1992

KCSM 000594



1700 W. Hillsdale Blvd. San Mateo, CA 94402-3784



(415) 574-6586

FAX: (415) 574-6675

(415) 574-642

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

IN THE MATTER OF )  
 )  
 KCSM TV CHANNEL 60, PETITIONER )  
 1700 WEST HILLSDALE BOULEVARD )  
 SAN MATEO, CA 94402 )  
 )  
 )  
 V. )  
 VIACOM CABLEVISION OF MARIN )  
 VIACOM INTERNATIONAL )  
 111 ANDERSON DRIVE )  
 SAN RAFAEL, CA 94901 )  
 415 459-5333 )  
 )  
 AND )  
 )  
 VIACOM CABLEVISION-AMERICAN )  
 CANYON )  
 )  
 VIACOM CABLEVISION-MARIN CITY )  
 )  
 VIACOM CABLEVISION-NAPA VALLEY )  
 )  
 VIACOM CABLEVISION-PETALUMA )  
 )

To: Chief, Mass Media Bureau

PETITION FOR DECLARATORY RULING  
UNDER SECTION 5 OF THE 1992 CABLE ACT

SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT AND KCSM TV CHANNEL 60 hereby submit the following Petition for Declaratory Ruling under Section 5 of the Cable Consumer Protection Act of 1992 (1992 Cable Act) in Accordance with the with filing procedures of 47 C.F.R. § 76.7

Parties

Public Broadcasting from the San Francisco Peninsula

KCSM 000595

SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT is the licensee of KCSM TV CHANNEL 60, 1700 West Hillsdale Boulevard., San Mateo, CA 415 574-6586.

VIACOM CABLEVISION OF MARIN - VIACOM INTERNATIONAL, 111 ANDERSON DR., SAN RAFAEL, CA 94901

### Jurisdiction

The Commission has jurisdiction over this Petition and over VIACOM CABLEVISION OF MARIN to Section 5(j) of the 1992 Cable Act.

### Qualifications to Exercise Rights Under Section 5

KCSM is licensed by the Federal Communications Commission as a noncommercial educational television broadcast station. KCSM is owned and operated by the San Mateo County Community College District, which is a public agency operating under the laws of the San Mateo County Community College District. KCSM is eligible to receive a community service grant from the Corporation for Public Broadcasting on the basis of the formula set forth in Section 396 (k)(6)(B) of the Communications Act. Accordingly, KCSM is a "qualified noncommercial educational television station" under Section 5(1)(1) of the 1992 Cable Act.

VIACOM CABLEVISION OF MARIN is a cable system generally serving Fairfield, CA. The principal headend of VIACOM CABLEVISION OF MARIN at 111 ANDERSON DRIVE.

KCSM's Grade B service contour, as defined in 47 C.F.R. § 73.683(a), encompasses the principal headend of VIACOM CABLEVISION OF MARIN .

KCSM is "local" as defined in Section 5(1) of the 1992 Cable Act.

### Denial of Carriage Under Section 5

By letter to VIACOM CABLEVISION OF MARIN November 25, 1992, KCSM requested the VIACOM CABLEVISION OF MARIN carry KCSM's signal pursuant to the requirements of Section 5 of the 1992

KCSM 000596

Cable Act. The letter is attached hereto in Attachment A

By letter dated, December 1, 1992 VIACOM CABLEVISION OF MARIN denied the request for carriage made by KCSM. The letter is attached hereto in Attachment B.

POST VIACOM CABLEVISION OF MARIN failed to comply with the signal carriage requirements of Section 5 of the 1992 Cable Act. KCSM respectfully requests that:

Relief Requested

a. The Commission rule that Respondent has failed to comply with the carriage requirements of Section 5 of the 1992 Cable Act and issue an order requiring VIACOM CABLEVISION OF MARIN to carry KCSM TV Channel 60 pursuant to the terms of that section.

Respectfully submitted,



David H. Hosley,  
GENERAL MANAGER  
KCSM TV CHANNEL 60  
1700 W. HILLSDALE BOULEVARD  
SAN MATEO, CA 94401

JANUARY 13, 1992



1700 W. Hillsdale Blvd. San Mateo, CA 94402-3784



(415) 574-6586

FAX: (415) 574-6675

(415) 574-64

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

|                                |   |
|--------------------------------|---|
| IN THE MATTER OF               | ) |
|                                | ) |
| KCSM TV CHANNEL 60, PETITIONER | ) |
| 1700 WEST HILLSDALE BOULEVARD  | ) |
| SAN MATEO, CA 94402            | ) |
|                                | ) |
|                                | ) |
|                                | ) |
| V.                             | ) |
| VIACOM CABLE SAN FRANCISCO     | ) |
| 2075 FOLSOM STREET             | ) |
| SAN FRANCISCO, CA              | ) |
| 415 863- 6000                  | ) |
|                                | ) |
|                                | ) |

To: Chief, Mass Media Bureau

PETITION FOR DECLARATORY RULING  
UNDER SECTION 5 OF THE 1992 CABLE ACT

SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT AND KCSM TV CHANNEL 60 hereby submit the following Petition for Delcaratory Ruling under Section 5 of the Cable Consumer Protection Act of 1992 (1992 Cable Act) in Accordance with the with filing procedures of 47 C.F.R.§ 76.7

Parties

SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT is the licensee of KCSM TV CHANNEL 60, 1700 West Hillsdale Boulevard., San Mateo, CA 415 574-6586.

VIACOM CABLE SAN FRANCISCO, 2075 FOLSOM STREET, SAN FRANCISCO, CA 94110.

### Jurisdiction

The Commission has jurisdiction over this Petition and over VIACOM CABLE SAN FRANCISCO to Section 5(j) of the 1992 Cable Act.

### Qualifications to Exercise Rights Under Section 5

KCSM is licensed by the Federal Communications Commission as a noncommercial educational television broadcast station. KCSM is owned and operated by the San Mateo County Community College District, which is a public agency operating under the laws of the San Mateo County Community College District. KCSM is eligible to receive a community service grant from the Corporation for Public Broadcasting on the basis of the formula set forth in Section 396 (k)(6)(B) of the Communications Act. Accordingly, KCSM is a "qualified noncommercial educational television station" under Section 5(1)(1) of the 1992 Cable Act.

VIACOM SAN FRANCISCO is a cable system generally serving Fairfield, CA. The principal headend of VIACOM SAN FRANCISCO at 2075 FOLSOM STREET, SAN FRANCISCO, CA 94110.

KCSM's Grade B service contour, as defined in 47 C.F.R. § 73.683(a), encompasses the principal headend of VIACOM SAN FRANCISCO.

KCSM is "local" as defined in Section 5(1) of the 1992 Cable Act.

### Denial of Carriage Under Section 5

By letter to VIACOM SAN FRANCISCO November 25, 1992, KCSM requested the VIACOM SAN FRANCISCO carry KCSM's signal pursuant to the requirements of Section 5 of the 1992 Cable Act. The letter is attached hereto in Attachment A

By letter dated, December 1, 1992 VIACOM SAN FRANCISCO denied the request for carriage made by KCSM. The letter is attached hereto in Attachment B.

VIACOM OF SAN FRANCISCO failed to comply with the signal carriage requirements of Section 5 of the 1992 Cable Act. KCSM respectfully requests that:

Relief Requested

a. The Commission rule that Respondent has failed to comply with the carriage requirements of Section 5 of the 1992 Cable Act and issue an order requiring VIACOM SAN FRANCISCO to carry KCSM TV Channel 60 pursuant to the terms of that section.

Respectfully submitted,



David H. Hosley,  
GENERAL MANAGER  
KCSM TV CHANNEL 60  
1700 W. HILLSDALE BOULEVARD  
SAN MATEO, CA 94401

JANUARY 13, 1992



designated its AML site at Big Rock in Marin County as its principal head end for all of the communities it serves in Marin, Napa and Sonoma Counties and for some of the communities it serves in Contra Costa County, including Pinole. Since Pinole receives its signals from the AML at Big Rock, Tele-Vue designated Big Rock as its principal head end for Pinole. KCSM was so notified by letter dated April 30, 1993, a copy of which is attached hereto as Exhibit 1.

Tele-Vue has not previously been required to carry KCSM in Pinole by virtue of the operation of the Standstill Order in Turner Broadcasting System, Inc. v. FCC, Civil Action No. 92-2247 et al. (D.D.C. December 9, 1992) and a Temporary Restraining Order issued by the U.S. District Court for the Northern District of California ("the District Court") on June 1, 1993, in Viacom International Inc. v. FCC, No. C-193-1984-EFL, (N.D. Cal.) applicable to, among others, Tele-Vue's cable television operations in Pinole. On June 29, 1993, the District Court issued an Order dissolving the Temporary Restraining Order. Since Tele-Vue has determined that KCSM does not provide a good quality signal to the designated principal head end serving Pinole, and since KCSM's Petition is still pending before the Commission, Tele-Vue is filing this Further Response to KCSM.

Tele-Vue's showing concerning the KCSM's signal quality at Big Rock is set forth in a Further Response to Petition for Declaratory Ruling being filed simultaneously herewith in CSR-3777, involving Tele-Vue's service to cable subscribers in

American Canyon, Marin City, Napa Valley, and Petaluma. That showing is incorporated herein by reference. Tele-Vue urges that the Commission determine, based on that showing that KCSM does not provide a good quality signal to Tele-Vue's principal head end at Big Rock used to serve subscribers in Pinole and that accordingly KCSM need not carry KCSM in Pinole.

For the foregoing reasons, Tele-Vue requests that the Commission dismiss KCSM's Petition.

Respectfully submitted,

George H. Shapiro  
Arent Fox Kintner Plotkin  
& Kahn  
1050 Connecticut Avenue, NW  
Washington, DC 20036-5339  
(202) 857-6022

Attorney for Tele-Vue Systems, Inc.  
and Affiliated Entities

July 8, 1993

FILE VIACOM  
7/14

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

IN THE MATTER OF

KCSM TV CHANNEL 60, PETITIONER  
1700 WEST HILLSDALE BOULEVARD  
SAN MATEO, CA 94402

File No. CSR-3776

V.

VIACOM CABLEVISION  
VIACOM INTERNATIONAL  
751 BELMONT AVENUE  
PINOLE, CA  
415 459-5333

To: Chief, Mass Media Bureau

REPLY TO VIACOM FURTHER RESPONSE TO  
KCSM PETITION FOR DECLARATORY RULING

Viacom has asked the Commission to dismiss KCSM's petition for declaratory ruling on the grounds that KCSM does not deliver a quality signal to their designated head end.

Viacom's argument is not valid on two grounds. First, the request for dismissal is untimely. The Standstill order did not relieve Viacom of its obligation to address the requirements of the legislation. The order said that if Viacom had substantive defense for not complying with KCSM's request for carriage under the Act besides its argument of unconstitutionality, then Viacom was required to state that reason in response to KCSM's petition for a declaratory ruling. Viacom did not raise any other substantive defense by May 3, 1993, so when the Temporary Restraining Order was vacated in June, Viacom was obliged to carry KCSM.

Secondly, Viacom never communicated a problem with KCSM's signal since passage of the Act and only raised this issue after it seemed likely the Temporary Restraining Order would be vacated. To seek dismissal of KCSM's petition without communicating there was concern about signal quality violates the good faith requirements of the Act as well as the timeliness issue. Had KCSM been notified of a signal problem in a timely manner, KCSM was, and is now, prepared to provide a notched antenna or explore other avenues to improve the signal, if necessary.

According to the statement of Viacom's Regional System Engineer Greg Johnson, summertime weather conditions seem to be the prime reason for Viacom's concern. KCSM is purchasing a new transmitter and it will be installed next summer. Even without exploring the use of a notched antenna or other improvement, by the time Viacom puts KCSM on their systems served by the Big Rock head end, this year's summer weather pattern will be over and KCSM's new transmitter will be installed by the time the pattern begins next year.

KCSM requests that its petition for carriage on the Pinole system be granted without further delay.

Respectfully submitted,



David H. Hosley  
General Manager

July 19, 1993

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

IN THE MATTER OF

KCSM TV CHANNEL 60, PETITIONER  
1700 WEST HILLSDALE BOULEVARD  
SAN MATEO, CA 94402

File No. CSR-3777

V.

VIACOM CABLEVISION OF MARIN  
VIACOM INTERNATIONAL  
111 ANDERSON DRIVE  
SAN RAFAEL, CA 94901  
415 458-5333

AND

VIACOM CABLEVISION-AMERICAN CANYON

VIACOM CABLEVISION-MARIN CITY

VIACOM CABLEVISION-NAPA VALLEY

VIACOM CABLEVISION-PETALUMA

To: Chief, Mass Media Bureau

REPLY TO VIACOM, FURTHER RESPONSE TO  
KCSM PETITION FOR DECLARATORY RULING

Viacom has asked the Commission to dismiss KCSM's petition for declaratory ruling on the grounds that KCSM does not deliver a quality signal to their designated head end.

Viacom's argument is not valid on two grounds. First, the request for dismissal is untimely. The Standstill order did not relieve Viacom of its obligation to address the requirements of the legislation. The order said that if Viacom had substantive defense for not complying with KCSM's request for carriage under the Act besides its argument of unconstitutionality, then Viacom was required to state that reason in response to KCSM's petition for a declaratory ruling. Viacom did not raise any other substantive defense by May 3, 1993 so when the

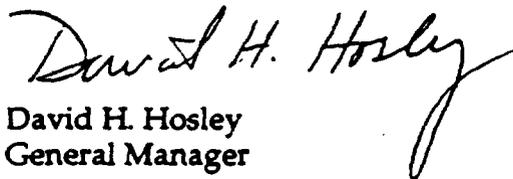
Temporary Restraining Order was vacated in June, Viacom was obliged to carry KCSM.

Secondly, from the time the Act was passed and the rules issued, Viacom never communicated a problem with KCSM's signal, despite several notification of several opportunities to do so from the Commission, and only raised this issue after it seemed likely the Temporary Restraining Order would be vacated. To seek dismissal of KCSM's petition without communicating there was concern about signal quality violates the good faith requirements of the Act as well as the timeliness issue. Had KCSM been notified of a signal problem in a timely fashion, KCSM was prepared, and is now, to provide a notched antenna or explore other avenues to improve the signal, if necessary.

According to the statement of Viacom's Regional System Engineer Greg Johnson, summertime weather conditions seem to be the prime reason for Viacom's concern. KCSM is purchasing a new transmitter and it will be installed next summer. Even without exploring the use of a notched antenna or other improvement, by the time Viacom puts KCSM on their systems listed above this year's summer weather pattern will be over and KCSM's new transmitter will be installed by the time the pattern begins next year.

KCSM requests that its petition be granted without further delay.

Respectfully submitted,

  
David H. Hosley  
General Manager

July 19, 1993

KCSM 000785

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554

IN THE MATTER OF )  
 )  
KCSM TV CHANNEL 60, PETITIONER )  
1700 WEST HILLSDALE BOULEVARD )  
SAN MATEO, CA 94402 )  
 )  
V. )  
TELEVISION SIGNAL CORPORATION )  
d/b/a VIACOM CABLE )  
2075 FOLSOM STREET )  
SAN FRANCISCO, CA )  
415 863-6000 )

File No. CSR-3779

To: Chief, Mass Media Bureau

PETITION FOR RECONSIDERATION

1. By Memorandum Opinion and Order (the "Order") released July 8, 1993, the Commission ordered Viacom Cable San Francisco<sup>1/</sup> to commence carriage of non-commercial educational television station KCSM-TV, San Mateo, California forty-six days from the date of its Order. The Commission's Order was issued in response to a Petition for Declaratory Ruling under Section 5 of the 1992 Cable Act, dated January 13, 1993 filed by San Mateo Community College District, the licensee of Station KCSM-TV, San Mateo, California ("KCSM"). On July 8, 1993, Viacom filed Response to Petition for Declaratory Ruling (the "Response"), responding to KCSM's Petition for Declaratory Ruling. However,

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<sup>1/</sup> The cable system in San Francisco is operated by Television Signal Corporation d/b/a Viacom Cable, a subsidiary of Viacom International Inc. There is no entity with the name Viacom Cable San Francisco. Viacom has therefore corrected the caption used by KCSM and the Commission in this proceeding. References to "Viacom" in this Petition are to Television Signal Corporation d/b/a Viacom Cable.

in view of the fact that the Order was adopted on May 28, 1993 and was released on July 8, 1993, the date on which Viacom filed its Response, Viacom's Response was obviously not considered by the Commission. Since, as shown by Viacom in its Response and as set forth below, a Commission order requiring carriage of KCSM on Viacom's San Francisco cable system is contrary to the plain language of the Commission's rules, Viacom is filing this Petition for Reconsideration and an accompanying Motion for Stay.

2. As set forth in the Declaration of George Franciscovich, Vice President, Counsel/Cable for Viacom International Inc., the parent company of Viacom, the original of which was attached to Viacom's Response and a copy of which is attached hereto, Viacom's San Francisco cable system currently has 54 usable activated channels and carries the following qualified local non-commercial stations:

KQED, Channel 9, San Francisco, CA

KMTP, Channel 32, San Francisco, CA

KTEH, Channel 54, San Jose, CA

Section 76.56(a)(1)(iii) of the Commission's rule on signal carriage obligations for qualified non-commercial educational stations provides in relevant part as follows:

Systems with more than 36 usable activated channels shall be required to carry the signals of three qualified local NCE educational television stations . . . .

Nothing in the Commission's rules provides any basis for requiring cable systems with more than 36 usable activated

channels to carry more than three qualified local NCE stations. Since, as show above, Viacom already carries the signals of three such stations on its San Francisco cable system, the rules that the Commission adopted implementing Section 5 of the 1992 Cable Act do not require it to add a fourth such signal.

For the foregoing reason, Viacom requests that the Commission reconsider its action ordering it to carry the signal of KCSM on its San Francisco cable system and instead dismiss KCSM's Petition for Declaratory Ruling because it seeks relief that the Commission is not authorized to provide under its rules.

Respectfully submitted,

/s/ George H. Shapiro  
George H. Shapiro

ARENT FOX KINTNER PLOTKIN  
& KAHN  
1050 Connecticut Avenue, NW  
Washington, DC 20036-5339  
(202) 857-6022

Counsel for Television Signal Corp.  
d/b/a Viacom Cable

July 27, 1993



1050 Connecticut Avenue, NW  
Washington, DC 20036-5339

George H. Shapiro  
Tel: 202/857-6022  
Fax: 202/857-6395

August 17, 1993

William F. Caton, Acting Secretary  
Federal Communications Commission  
Washington, DC 20554

Re: CSR-3779

Dear Mr. Caton:

On July 27, 1993, Television Signal Corporation d/b/a Viacom Cable (Viacom Cable) filed a Petition for Reconsideration and a Motion for Stay of the Commission's Memorandum Opinion and Order in the above-referenced proceeding, released July 8, 1993, ordering the cable television system serving San Francisco, California, to commence carriage of non-commercial educational television station KCSM-TV, San Mateo, California, 46 days from date of its Order. KCSM-TV filed oppositions to these pleadings dated August 12, 1993.

The purpose of this letter is to request, on behalf of Viacom Cable that the Commission dismiss the Petition for Reconsideration and Motion for Stay. The San Francisco cable systems plans to commence carriage of Station KCSM-TV on or about August 31, 1993, and as noted in KCSM-TV's Opposition to Petition for Reconsideration, it has agreed to delay carriage under the Commission's Order until August 31 in order to accommodate the cable system's desire to add several stations at the same time. Viacom Cable is dismissing these Petitions without prejudice to its right in the future to seek relief from the Commission's Order that it carry KCSM-TV on the San Francisco cable system should the factual considerations or applicable legal requirements and precedents change at some point in the future.

Very truly yours,

George H. Shapiro  
Counsel for Television Signal Corporation  
d/b/a Viacom Cable

cc: Mr. David H. Hosley ✓

KCSM 000259

**Arent Fox Kintner Plotkin & Kahn** • Washington, DC  
New York, NY • Vienna, VA • Bethesda, MD • Budapest, Hungary • Jeddah, Kingdom of Saudi Arabia

**VIACOM**  
CABLE

FILE

November 15, 1993

David Hosley  
General Manager  
KCSM-60  
1700 West Hillside Blvd.  
San Mateo, CA 94402

Re: Viacom Cable serving Marin, American Canyon, Pinole, Crockett,  
and Petaluma, California

Dear David,

Please let this letter serve as notice that Viacom Cable will be  
adding KCSM-60 to the above mentioned systems on December 22, 1993.  
Thank you.

Sincerely,



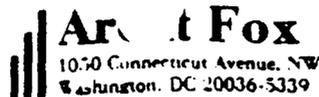
Tim Rea  
Vice President and General Manager

TR/jmp

1111 Andersen Drive  
San Rafael, CA 94901

Telephone  
(415) 459-5333

Fax  
(415) 258-0136



George H. Shapiro  
Tel. 202/857-6022  
Fax 202/857-6395

June 6, 1994

RECEIVED  
JUN 6 1994

William F. Caton, Acting Secretary  
Federal Communications Commission  
Washington, DC 20554

Attn: Cable Services Bureau

Re: CSR-3777

Dear Mr. Caton:

The above-referenced proceeding concerns a Petition for Declaratory Ruling filed by San Mateo Community College District, licensee of non-commercial educational Station KCSM-TV, San Mateo, California. KCSM-TV has alleged that cable systems operated by subsidiaries of Viacom International Inc. ("Viacom") have been operating in violation of the Commission's non-commercial educational must-carry rules. Tele-View Systems, Inc., a subsidiary of Viacom and parent of all Viacom-affiliated entities operating cable systems in Marin, Napa, and Sonoma Counties, California, where the cable systems subject to the above-referenced proceeding are located, has previously sought to show that KCSM-TV did not provide a good quality signal to the principal headend serving the communities specified by KCSM-TV in the above-referenced proceeding.

Subsequently, by letter dated September 17, 1994, undersigned counsel for Viacom and its subsidiaries involved in this proceeding advised the Commission that the engineering consultants to the parties were working toward resolution of the issues in the proceeding and that the parties were hopeful that an amicable resolution could be reached.

The purpose of this letter is to advise the Commission that the parties have resolved this proceeding and that, beginning on December 22, 1993, transmission of KCSM-TV commenced in the communities specified in KCSM's Complaint. Such action was without prejudice to whatever action

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• New York, NY • Vienna, VA • Bethesda, MD • Budapest, Hungary

KCSM 000211

# **Arent Fox**

William F. Caton, Acting Secretary

June 6, 1994

Page 2

Viacom and its subsidiaries might take if the Supreme Court determines that must-carry requirements are unconstitutional. Viacom's carriage of KCSM-TV on these systems resolves the issues raised by KCSM-TV, and Viacom understands that, upon receipt of its copy of this letter, KCSM-TV will request that the Commission dismiss its Petition for Declaratory Ruling.

Very truly yours

George H. Shapiro  
Counsel for Viacom International  
Inc, Tele-Vue Systems, Inc., and  
Affiliated Entities

cc: Mr. David H. Hosley



1050 Connecticut Avenue, NW  
Washington, DC 20036-5339

George H. Shapiro  
Tel: 202/857-6022  
Fax: 202/857-6395

December 9, 1994

William F. Caton, Acting Secretary  
Federal Communications Commission  
Washington, DC 20554

Stop Code: 1200A1

Attn: Cable Services Bureau  
Technical Services Team

Re: CSR-3776

Dear Mr. Caton:

In response to an informal Commission staff request concerning whether the signal of Station KCSM-TV is currently being carried on the cable television system serving Pinole, California, which is the subject of the above-referenced complaint, undersigned counsel for the cable system was advised that Station KCSM-TV's signal is now carried on this cable system. Its carriage commenced at approximately the same time that carriage commenced in other communities served by the same AML microwave station which were the subject of a similar must-carry complaint in CSR-3777. A copy of my letter to the Commission concerning the commencement of carriage of KCSM-TV in those communities is attached, and undersigned counsel is advised that carriage in Pinole began at the same time as well.

For the foregoing reasons, we are aware of no reason why the above-referenced proceeding may not now be dismissed as moot. However, by copy of this letter, we are apprising the General Manager of Station KCSM-TV of our position on this matter. We assume that, if he has some reason for objecting to dismissal of the proceeding as moot, he will so advise the Commission.

Very truly yours,

George H. Shapiro

Enclosure

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New York, NY • Vienna, VA • Bethesda, MD • Budapest, Hungary • Jeddah, Kingdom of Saudi Arabia

KCSM 000209

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

IN REPLY REFER TO:  
4620-PP

David H. Hosley, General Manager  
KCSM TV Channel 60  
1700 W. Hillsdale Boulevard  
San Mateo, California 94401

In re: San Mateo County Community College  
District  
(KCSM-TV)  
CSR-3776; CA0069  
CSR-3777

Dear Mr. Hosley:

On January 26, 1993, you filed petitions for declaratory ruling, on behalf of San Mateo County Community College District, licensee of Station KCSM-TV (Educ., Ch. 60), San Mateo, California, claiming that Viacom Cablevision had refused to carry KCSM-TV on its systems serving Pinole and Marin County, California. Subsequently, by letters dated December 9, 1994, counsel for Viacom informed the Commission that KCSM-TV is now being carried on the systems.

In view of the foregoing, pursuant to §0.321 of the Commission's Rules, the petitions for declaratory ruling, filed January 26, 1993, are dismissed.

Sincerely,



Ronald Parver, Chief  
Technical Services Team  
Consumer Protection Division  
Cable Services Bureau

cc: George H. Shapiro, Esq.

KCSM 000215

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

In re:

Complaint of San Mateo County Community College District against Viacom Cable San Francisco

CSR-3779  
CA0245

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 28, 1993;

Released: July 8, 1993

By the Chief, Mass Media Bureau:

1. On January 26, 1993, a petition on behalf of the San Mateo County Community College District, licensee of Station KCSM-TV (Educ. Ch. 60), San Mateo, California, was filed with the Commission claiming that Viacom Cable San Francisco ("Viacom"), had declined to carry the station, even though the Grade B contour of KCSM-TV encompasses the system's principal headend in San Francisco, California, and it is therefore a "local" signal within the meaning of Section 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992).

2. On April 8, 1993, the United States District Court of the District of Columbia issued a decision in the litigation involving *Turner Broadcasting System, Inc., et al., v. Federal Communications Commission*, Civil Action No. 92-2247 (D.D.C. April 8, 1993), which upheld the provisions of the 1992 Cable Act that had been challenged as violating plaintiffs' constitutional rights and terminated the 120 day *Standstill Order* previously issued in this case.

3. Since no other pleadings were filed in this matter within the fifteen (15) day period specified by the Commission in its Public Notice, Mimeo No. 32419 (released March 26, 1993), the complaint filed January 26, 1993, by San Mateo County Community College District IS GRANTED, in accordance with Section 615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Viacom Cable San Francisco IS ORDERED to commence carriage of KCSM-TV forty-six (46) days from the date of this *Order*. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by Section 0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart  
Chief, Mass Media Bureau



5. The Commission's rules specify that must-carry complaints involving NCE stations, must be filed with the Commission within sixty days of the time when the complainant first believes that the cable operator has failed to comply with the must-carry rules. 47 C.F.R. § 76.7(c)(4)(iii). The Commission elaborated on this requirement in its rulemaking proceedings by stating that "[w]ith respect to NCE stations, no complaints will be accepted if filed more than 60 days after the station became aware, through some affirmative action of the cable operator, that such operator had allegedly violated the Act." *Report and Order in MM Docket No. 92-259*, 8 FCC Rcd 2965, 2995 (1993). In footnote 356, the Commission further explained that,

A written request by an NCE station to a cable operator for the list of must-carry stations contained in operator's public file will not be considered notification of a failure to comply with the Act. However, receipt by the NCE station of such a list (which the operator is required to provide within thirty (30) days of a request) may constitute the specific event triggering the 60 days time frame in which to file a complaint, if such list contains the information on which the NCE station will base its complaint.

The Commission also stated that "[a]n affirmative action . . . would include a denial from a cable operator in response to a demand by the station for either carriage or channel position, or the failure to respond to such a demand within the required 30-day time frame (emphasis added)." *Report and Order in MM Docket No. 92-259*, 8 FCC Rcd at 2995. Moreover, the Commission requires an NCE station to follow the same procedures as provided for commercial stations when an NCE station chooses to notify a cable operator directly of a carriage-related dispute prior to filing a complaint with the Commission.

With respect to an NCE station, although the statute gives the NCE station the right to directly file a complaint with the Commission, *it is anticipated, though not required, that if there is any question relating to the carriage obligations of the cable system, the NCE station will make inquiries of the cable system prior to filing a complaint. In the event the NCE station chooses to notify a cable operator of an alleged failure to comply with the Act, we believe it appropriate that they use the procedures outlined for commercial or LPTV stations. If it so chooses, the NCE station should also notify the cable operator that it is availing itself of those procedures and that it anticipates receiving a response from the cable operator within 30 days.* (emphasis added) In the event the NCE station chooses to avail itself of the plain language of the statute and file a complaint directly with the Commission without prior notification to the cable system, the NCE station must serve the cable system as provided in Section 76.7 of our rules.

*Id.* at 2994-95. Consequently, an NCE station following the procedures set out for commercial stations should also face the same filing requirements for carriage-related complaints

(including deadlines and associated "triggering events") applicable to commercial stations.

6. The Commission's rules, however, as explained in its rulemaking proceedings, clearly encourage an NCE station to clarify and to resolve its carriage status with the cable operator *before* filing a must-carry complaint with the Commission. See *Report and Order in MM Docket No. 92-259*, 8 FCC Rcd at 2994-95, and para. 5, *supra*. Moreover, if an NCE station chooses to follow this strategy, it must provide the cable operator up to thirty days to respond to its request. *Report and Order in MM Docket No. 92-259*, 8 FCC Rcd at 2994-95. This suggests that the "affirmative action" or "triggering event" necessary to initiate the Commission's filing deadline for a subsequent must-carry complaint should occur in relation to this process. Because NCE stations are allowed by the Commission to follow the same procedures outlined for commercial stations when attempting to resolve their carriage disputes directly with individual cable operators, we believe that the "affirmative action" or "triggering event" necessary to initiate the Commission's filing deadline regarding subsequent complaints should also be the same for NCE stations in this particular situation. See *Report and Order in MM Docket No. 92-259*, 8 FCC Rcd at 2994-95, and para. 5, *supra*.

7. Therefore, we agree with KCSM-TV that, because it had not requested carriage before it received Viacom's channel line-up card on July 16, 1993, KCSM-TV's receipt of this line-up card, without its prior solicitation, did not constitute an appropriate "affirmative action" or "triggering event" with regard to the filing deadline for KCSM-TV's must-carry complaint. It appears from the facts provided by the parties, instead, that Viacom's failure to respond to KCSM-TV's August 30, 1993 carriage request by September 29, 1993 (*i.e.*, thirty days after the request) was the actual "triggering event" that most closely conforms to the Commission's explanation of its rules concerning filing deadlines for must-carry complaints. See *Report and Order in MM Docket No. 92-259*, 8 FCC Rcd at 2995, and para. 5, *supra*. Therefore, in accordance with these rules, KCSM-TV had until November 28, 1993 (sixty days after the "triggering event") to file its complaint with the Commission. See 47 C.F.R. § 76.7(c)(4)(iii). Because KCSM-TV's complaint was filed with the Commission on November 16, 1993, KCSM-TV's complaint was timely filed and it will be accepted by the Commission for consideration on its merits.

8. Since there is no substantive dispute between the parties over whether or not KCSM-TV is a qualified local NCE station, entitled to mandatory carriage on Viacom's system under the Commission's rules, we believe that KCSM-TV has established that it is entitled to carriage on Viacom's East Bay system.

9. Accordingly, the petition filed on November 16, 1993 by KCSM-TV Channel 60 IS GRANTED, pursuant to Section 615(j)(3) (47 U.S.C. 535(j)(3)) of the Communications Act, as amended, and Viacom Cable IS ORDERED to commence carriage of KCSM-TV on its East Bay system forty-five (45) days from the release date of this Order. This action is taken pursuant to authority delegated by Section 0.321 of the Commission's rules. 47 C.F.R. § 0.321.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson  
Deputy Chief, Cable Services Bureau



**K****C****S****M**

100 W. HILLSDALE BOULEVARD, SAN MATEO, CALIFORNIA 94402-3784 TV PHONE 415 574 6586 FM PHONE 415 574 6427 FAX 415 574 6427

May 17, 1993

Mark Solens, Acting General Manager  
TCI Cablevision-Sunnyvale  
750 San Aleso Avenue  
Sunnyvale, CA 94086

Dear Mr. Solens,

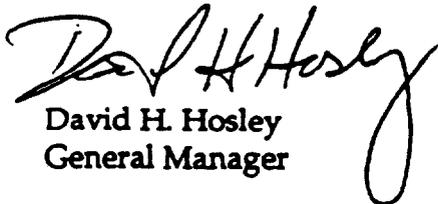
I am requesting carriage under Section 5 of the Cable Television Consumer Protection and Competition Act of 1992. KCSM is a qualified station under the Act.

KCSM-TV, Channel 60, broadcasts a schedule significantly different from other public television stations in the Bay Area. We devote 40% of our schedule to telecourses. We are a PBS Limited Use Discount station, which means we must delay almost all PBS programming eight days, further reducing duplication of service. In addition, we produce more local programming than any of the other PBS affiliates in the market, and also carry a number of other programs not found on any other public station serving this area.

I would like to discuss with you an appropriate channel position and start date for carriage.

Thank you very much.

Sincerely yours,



David H. Hosley  
General Manager

APTS 010921



September 8, 1993

Lee Perron  
General Manager  
TCI Cablevision of California-Fremont  
47770 Westinghouse Drive  
Fremont, CA 94539

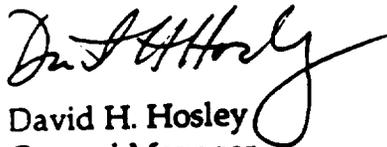
Dear Mr. Perron,

Under the 1992 Cable Act, I am requesting must carry status on your cable system service to Fremont.

KCSM is a qualified, noncommercial educational station eligible for must carry status. We do not substantially duplicate the programming of other NCE's in the area due to 40% of our schedule being devoted to telecourses and our status as a limited use discount PBS affiliate, which requires us to delay the limited amount of PBS programming we carry by eight days from the national feed. I would like to discuss with you an appropriate channel position under the rules developed after passage of the Act.

Thank you very much.

Sincerely yours,

  
David H. Hosley  
General Manager

**K****C****S****M**

1700 WEST HILLSDALE BOULEVARD, SAN MATEO, CALIFORNIA 94402-3784 TV PHONE 415 574 6586 FM PHONE 415 574 6427 FAX 415 574 6427

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

IN THE MATTER OF

-----  
KCSM TV CHANNEL 60, PETITIONER  
1700 WEST HILLSDALE BOULEVARD  
SAN MATEO, CA 94402

v.

TCI CABLEVISION OF CALIFORNIA-FREMONT  
47770 WESTINGHOUSE DRIVE  
FREMONT, CA 94539  
-----

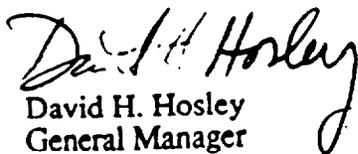
To: Chief, Mass Media Bureau

PETITION FOR DECLARATORY RULING

On September 8, 1993, KCSM requested carriage on TCI's system serving Fremont under the must carry provisions of the 1992 Cable Act. The letter is attached. KCSM received no response. On October 22, 1993 KCSM sent a second letter, via facsimile, asking for a response regarding the September 8 request. Again, KCSM has not received a response.

As a qualified station, KCSM seeks a declaratory ruling ordering TCI Cablevision-Fremont to provide carriage.

Respectfully submitted,

  
David H. Hosley  
General Manager

December 14, 1993

KCSM 000668

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

IN REPLY REFER TO:  
4620-SP

FEB - 4 1994

David H. Hosley  
General Manager  
KCSM TV Channel 60  
1700 W. Hillsdale Boulevard  
San Mateo, California 94402-3784

In re: KCSM TV Channel 60  
(KCSM)  
CSR-4185-M; CA0100

Dear Mr. Hosley:

On January 11, 1994, you filed a petition for declaratory ruling, on behalf of KCSM TV Channel 60, licensee of Television Broadcast Station KCSM (Educ., Ch 60), San Mateo, California, claiming that TCI Cablevision of California-Fremont had declined to carry KCSM on its system serving Fremont, California. Subsequently, on January 4, 1994, you withdrew the petition as TCI has agreed to add KCSM to their system as of February 17, 1994.

In view of the foregoing, pursuant to Section 0.283 of the Commission's Rules, the petition for declaratory ruling, filed January 11, 1994, is hereby dismissed.

Sincerely,



Ronald Parver  
Chief, Technical Services Branch  
Cable Services Bureau

KCSM 000675