

**BIENSTOCK & CLARK**

A Partnership Including Professional Associations  
311 SOUTH WACKER DRIVE, STE. 4550  
CHICAGO, ILLINOIS 60606  
TELEPHONE 312-697-4965  
FACSIMILE 312-697-4986

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Lisa M. Chandler

December 11, 1998

VIA COURIER

**Ms. Magalie Roman Salas**  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W., Room TW-A325  
Washington, D.C. 20554

**Re: Initial Regulatory Flexibility Analysis Comments of the Small Cable Business Association ("IRFA Comments"); CS Docket No. 98-201, RM Nos. 9335 and 9345**

Dear Ms. Salas:

On behalf of the Small Cable Business Association ("SCBA"), we enclose fourteen (14) copies of the above-referenced IRFA Comments. We request that each Commissioner receive a copy of SCBA's Comments.

In addition, we provide a "FILE COPY." We ask that you date-stamp and return it to the courier.

If you have any questions, please call us.

Very truly yours,

Lisa M. Chandler

Enclosures

cc: Small Cable Business Association

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

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In the Matter of )  
)  
Satellite Delivery of Network Signals )  
to Unserved Households for )  
Purposes of the Satellite Home )  
Viewer Act )  
)  
Part 73 Definition and Measurement )  
of Signals of Grade B Intensity )

CS Docket No. 98-201  
RM No. 9335  
RM No. 9345

**INITIAL REGULATORY FLEXIBILITY ANALYSIS  
COMMENTS OF THE  
SMALL CABLE BUSINESS ASSOCIATION**

Of Counsel:

Matthew M. Polka  
President  
Small Cable Business Association  
100 Greentree Commons  
Pittsburgh, Pennsylvania 15220  
(412) 937-0005

Eric E. Breisach  
Christopher C. Cinnamon  
Lisa M. Chandler

Bienstock & Clark  
5360 Holiday Terrace  
Kalamazoo, Michigan 49009  
(616) 353-3900

Attorneys for the Small Cable Business  
Association

December 11, 1998

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

<b>In the Matter of</b>	)	
	)	
<b>Satellite Delivery of Network Signals</b>	)	<b>CS Docket No. 98-201</b>
<b>to Unserved Households for</b>	)	<b>RM No. 9335</b>
<b>Purposes of the Satellite Home</b>	)	<b>RM No. 9345</b>
<b>Viewer Act</b>	)	
	)	
<b>Part 73 Definition and Measurement</b>	)	
<b>of Signals of Grade B Intensity</b>	)	

**INITIAL REGULATORY FLEXIBILITY ANALYSIS  
COMMENTS OF THE  
SMALL CABLE BUSINESS ASSOCIATION**

The Small Cable Business Association ("SCBA") submits these comments to address a critical deficiency in the Commission's Initial Regulatory Flexibility Analysis ("IFRA") in the above-captioned rulemaking proceeding. SCBA, with approximately 300 members serving more than two million subscribers nationwide, remains the only voice solely dedicated to representing the interests of smaller, independently owned cable businesses. Because of the far-reaching impact of the changes proposed in this rulemaking proceeding,<sup>1</sup> SCBA takes this opportunity to file its comments.

The Regulatory Flexibility Act ("RFA") requires the Commission to describe and estimate the number of small entities potentially affected by a Commission action.<sup>2</sup> In the instant matter, the Commission suggests that the proposed actions will affect "television

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<sup>1</sup> *In the Matter of Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act*, Notice of Proposed Rule Making in CS Docket No. 98-201, RM Nos. 9335 and 9345, FCC 98-302 (released November 17, 1998) ("NPRM").

<sup>2</sup> 5 U.S.C. § 604(a)(3).

broadcasting licensees and DBS operators."<sup>3</sup> This ignores the impact any proposed action would have on small cable businesses and small cable systems ("small cable").

Commission action in this matter will have a considerable impact on small cable. Small cable and satellite carriers tend to draw from the same customer base. Small cable traditionally serves smaller and rural communities. The satellite carrier compulsory license under 17 U.S.C. § 119 seeks to provide service to rural Americans who cannot receive an adequate off-air network television signal.<sup>4</sup> Any Commission action that would have the effect of broadening the "unserved" household definition and therefore the number of potential subscribers to whom satellite carriers could offer distant network signals necessarily adversely impacts small cable. Every potential subscriber a satellite carrier would gain by way of an expanded "unserved" household definition results in the potential loss of a cable subscriber.

A Commission action that has the effect of broadening the "unserved" household definition also impacts the network-affiliate relationship and localism — a primary concern

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<sup>3</sup> *In the Matter of Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act*, Notice of Proposed Rule Making in CS Docket No. 98-201, RM Nos. 9335 and 9345, FCC 98-302, at Appendix A, ¶ 2 (released November 17, 1998) ("NPRM").

<sup>4</sup> See H.R. Rep. No. 100-887(II), 100<sup>th</sup> Cong., 2<sup>nd</sup> Sess. (1988), 1998 U.S.C.C.A.N. 5577, 5648 (*"House Report II"*)(expressing the belief of the House of Representatives Committee on Energy and Commerce that the "limited interim compulsory license . . . will satisfy the public interest in making available network programming in these (typically rural) areas, while also respecting the public interest in protecting the network-affiliate distribution system.")

under SHVA<sup>5</sup> and a primary concern of small cable. Small cable has always supported localism as a critical element of this nation's communications policy. SCBA members represent an important link in the distribution of local programming, especially in rural America. To the extent a Commission action would threaten localism, it adversely impacts the concerns of small cable.

SCBA reminds the Commission of its statutory obligation to consider the impact any Commission action would have on small entities. Because of the impact to small cable discussed above, the Commission must address these issues and include a comprehensive discussion of the impact its actions will have on small cable in its Final Regulatory Flexibility Analysis.

Respectfully submitted,

**SMALL CABLE BUSINESS  
ASSOCIATION**

By: *Lisa M. Chandler*

Of Counsel:

Matthew M. Polka  
President  
Small Cable Business Association  
100 Greentree Commons  
Pittsburgh, Pennsylvania 15220  
(412) 937-0005

Eric E. Breisach  
Christopher C. Cinnamon  
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<sup>5</sup> See House Report II at 5648.