several major Mid-Western major markets, representing an increase of 20% over last year.[71] Comcast also competes against SBC in Connecticut, where SBC (through its acquisition of Southern New England Telephone) holds a state-wide cable franchise granted in 1996.[72] Although the continued ownership of these cable systems by SBC is in question, the systems exist, are functioning, have attracted subscribers, and will undoubtedly be purchased by companies dedicated to competitive entry into voice, video and data service markets.[73]

C. COMCAST'S STRATEGY OF CREATING SYSTEM CLUSTERS STRENGTHENS COMPETITION AND BENEFITS CONSUMERS

1. Clustering produces operational efficiencies required to combat higher costs and aggressive competitors.

As the Commission indicated in its *Sixth Annual Report*, clustering is primarily a responsive competitive strategy.

> Clustering of cable systems can create greater economies of scale and size. Accordingly, it can enable cable operators to offer a wider variety of broadband services at lower prices to customers in geographic areas that are larger than single cable franchise areas. Clusters can thus make cable operators more effective competitors to LECs whose local exchange service areas are usually much larger than a single cable franchise area. The General Accounting Office . . . also found that ownership ties and clustering strategies may provide cost savings and possible competitive advantages.[74]

[71] Compare National Cable Television Association, Development of Broadband Overbuild Competition: An Analysis of New Entrants in the Video/Voice/High-Speed Data Marketplace, at 9 (rel. Sept. 2000), (attached as Appendix A to NCTA Comments) with Comcast 1999 Reply Comments at 13.

[72] See Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, Fourth Annual Report, 13 FCC Rcd 1034, 1101-02, 1113 (1998).

[73] *See* Mike Farrell, *SNET Wants Out of Cable in Conn*, MULTICHANNEL NEWS, Aug. 14, 2000, at 2; Vince Vittore, *Goodbye Convergence*, TELEPHONY, Aug. 14, 2000; Michael Grebb and Charles Paibert, *Overbuilder Wanted: Ameritech Systems for Sale*, CABLEVISION, Apr. 10, 2000 at 8.

[74] Sixth Annual Report at ¶ 162.

In response to consolidation among competitors such as the DBS industry, ILECs,[75] regional electric utility companies[76] and others, Comcast has focused for several years on realigning its operations into dense regional clusters. Clustering permits Comcast to respond to increased costs of programming and technology upgrades, as well as competitive pressures, by reducing operating expenses and making more efficient use of its existing network to serve relatively large geographic groupings of customers. Comcast will face competition from local terrestrial competitors in a large percentage of its markets and from the two national DBS competitors in all of its markets.

Comcast's terrestrial cable competitors have entered and are continuing to enter Comcast's clustered markets with great success. For example, RCN reports cable penetration of thirty percent and local phone penetration of twenty percent in neighborhoods it serves in Washington, D.C., which will soon be included into the southern portion of Comcast's Mid-Atlantic super-cluster.[77] Additional entrants, such as American Broadband and BroadbandConnect, have also chosen to compete in Comcast service areas.[78] Although Comcast has been able to mount competitive responses in these areas, DBS providers have nevertheless

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[75] See *Application of GTE Corp. and Bell Atlantic Corp.*, Memorandum and Order, CC Docket No. 98-184, FCC 00-221 (rel. June 16, 2000); *Application of Ameritech and SBC Comm.*, 14 FCC Rcd 14712 (1999); *Application of SBC Comm. and Southern New England Telecommunications Corp.*, 13 FCC Rcd 21292 (1998).

[76] See *First Energy Deal for GPU Will Create Sixth Largest Utility in Country*, NORTHEAST POWER REPORT, Aug. 11, 2000, at 1; *FERC Acts on Four More Mergers, Approving Three*," ENERGY INSIGHTS, July, 28, 2000, at 27; *Enron Operations to Pay $85 Million for PG&E Retail Energy Service Unit*," WALL STREET JOURNAL, April 14, 2000, at A4; *NSP-NCE Merger Gets Unconditional Approval*," ENERGY INSIGHTS, Jan. 14, 2000, at 14; *FERC Judge Clears AEP Merger, Finds Plans Satisfy Competitive Concerns*, ELECTRIC UTILITY WEEK, Oct. 29, 1999, at 12; *Score a Deal? 20-Odd Mergers in Search of a Policy, As 8Utility Takeovers Break New Ground, the FERC Ponders Proposed Rules, Perhaps Already Out of Date*, PUBLIC UTILITIES FORTNIGHTLY, Jan. 15, 1999, at 38.

[77] Press Release, *RCN Launches Service in Gaithersburg, Maryland*, July 26, 1999 (available at <http://www.rcn.com/investor/press/07-99/07-26-99/07-26-99.html>); Linda Haugsted, *Boston Pact Caps Busy Week for RCN*, MULTICHANNEL NEWS, August 2, 1999 at 3, 50.

[78] *See* Section II.B.2.

gained a healthy seven percent penetration in Comcast's digital-capable markets, and a twelve percent penetration in Comcast's nondigital markets as compared with their 15.25 percent nationwide share.[79] Despite generalized suspicions raised by video competitors in this record that clustering could yield anti-competitive results, clustering in fact has resulted in significant benefits to consumers and has not impeded Comcast's satellite or terrestrial competitors. Clustering has allowed Comcast to reduce costs in several ways: it permits use of a smaller number of headends within clusters, which lowers equipment, real estate, and labor costs, as well as reducing associated satellite costs; it enables more efficient marketing and product rollout across a region; it permits more efficient production of desirable local and regional video programming; and it allows more effective branding of video, broadband, and telecommunications services. The recent *Washington Post* article on Comcast's entry into the Baltimore-Washington area acknowledges clustering as an effective basis for attracting advertisers.

> Comcast will be able to insert advertisements throughout the network, creating a huge marketing opportunity for Madison Avenue . . . [U]ltimately, the technology will allow advertisers to target their commercials with pinpoint accuracy, neighborhood by neighborhood. It will also give consumers the ability to respond to an ad with their remote control, perhaps by requesting more information about a mutual fund or even scheduling a test drive for a new car.[80]

Comcast noted in its comments last year that increases in advertising revenues can, in turn, be used to offset at least a portion of the large cost increases Comcast has experienced in

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[79] Diane Mermigas, *Comcast Doing Much Better than Stock Price Indicates*, ELECTRONIC MEDIA, July 17, 2000, at 18 (noting DBS competition in Comcast markets); *NCTA Comments*, at 9 (notiong DBS market share nationwide). In short, Comcast's satellite competitors' attempt to recast their long-standing program access complaints as evidence of the anti-competitive effects of clustering is a rather transparent attempt to obtain even greater regulatory advantages for their flourishing businesses. *See Comments of EchoStar Satellite Corporation* in CS Docket No. 00-132, at 6-8 (filed September 8, 2000) ("*EchoStar Comments*"); *DirecTV Comments*, at 7-9; *BellSouth Comments* at 4-7.

programming and upgrade expenses, helping somewhat to reduce pressure on cable's retail prices.[81]

Comcast's experience in developing its Mid-Atlantic cluster provides a good example of how clustered systems can compete more effectively with DBS, LECs, overbuilders, and other MVPD and broadband competitors in both traditional video as well as new service offerings. By building this cluster, Comcast has been able to roll out new services ubiquitously, comprehensively cover urban neighborhoods, establish community partnerships, and extend digital opportunities to the community through training programs and access to the Internet. As discussed below, Comcast has devoted considerable attention to connecting previously underserved urban community centers, providing them with cable modem service and related training and benefits.

By reducing costs, Comcast has been able to maintain retail prices at reasonable levels in the face of the mounting programming and upgrade expenditures that must be made to remain competitive in today's MVPD market. Comcast has observed for several years that, in contrast to the telecommunications and computer industries, which have experienced declining fixed and variable costs, both system expenses and programming costs in the cable industry continue to increase dramatically.[82] Comcast has consistently maintained that any study of video competition must analyze an array of factors in addition to retail price increases or decreases, including variations in capital expenditures, service improvements, the addition of new services, and fluctuations in the costs of providing service. Simplistic comparisons with the consumer

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80 *See* Stern, *supra*, n. 9 & Appendix B.

81 See Comcast 1999 Reply Comments at 28.

82 See Comcast 1999 Reply Comments at 29-33; Reply Comments of Comcast Corp. in CS Docket No. 98-102, at 19-25 (filed Aug. 31, 1998) (Comcast 1998 Reply Comments).

price index or the pricing experience of the telecommunications or computer industries fail to recognize the unique cost pressures of the entertainment and information industries.[83]

This year is no exception. The trend toward increased underlying costs[84] to provide competitive cable and other advanced communications services is evident and appears to be a more or less permanent feature of today's MVPD marketplace.[85] Cable operators must not only continually upgrade their systems to provide digital channel line-ups comparable to those offered by its competitors, but must operate more efficiently.

As discussed in greater detail below, BellSouth's claim that the cable industry trend toward clustering gives cable MSO's an unfair advantage vis-à-vis access to programming in local markets, receipt of volume discounts from programmers, and the ability to evade program access through migration of satellite programming to terrestrial fiber distribution,[86] gains no greater validity by virtue of its continual repetition. Contrary to BellSouth's claim, clustering is a reasonable, necessary, and appropriate competitive response to market conditions by heretofore geographically fragmented cable franchisees. As Comcast has demonstrated, clustering provides tangible benefits to consumers in the form of lower prices, more rapid rollout of advanced services, and higher quality local and regional programming, among others.

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83 See Id.

84 The prospect of continued increases in sports programming costs was recently reconfirmed with the announcement that FOX has agreed to pay over $2.5 billion for the rights to broadcast Major League Baseball's network television package from 2001 to 2006. *See* Jon Friedman, CBS Market Watch Website, *Archives: Fox to Pay $2.5 Billion For Baseball,* (visited Sept. 27, 2000) <http:www2. marketwatch.com>. Such agreements by broadcasters form a long chain of economic consequences, ultimately resulting in increased sports programming license fees to cable operators. Yet, competition constrains Comcast's ability to pass these costs along to subscribers in the form of higher rates.

85 Indeed, DirecTV recently announced a price increase for its monthly programming packages of $2 for all subscribers, citing, among other things, rising programming costs, new programming additions and support for the development of interactive and enhanced video offerings. *See* Sky Report Website, *DirecTV Ready to Increase Prices* (posted July 28, 2000; visited September 27, 2000) <http:www. skyreport.com/skyreport/jul2000/072800.htm#one>.

86 See BellSouth Comments at 4-6.

2. Clustering Facilitates Even Greater Local and Regional Community Involvement.

Comcast has long recognized that one of cable's early and primary strengths was its local focus and local community ties. The Company has a lengthy history of deep community involvement in its franchise areas because the company's leaders have established a top corporate priority to invest in the communities Comcast serves. Comcast's active local presence is a reflection of its founders' belief that the most important investment the company and its employees can make is in the local communities they serve. Clustering of systems facilitates the development and distribution of more local and regional programming than would otherwise be economically feasible. Such programming has become increasingly less available from local broadcast stations.

An example of this local programming is Comcast's award winning "CN8" network, which is cablecast across all Comcast Mid-Atlantic systems to almost four million subscribers in New Jersey, Pennsylvania, Delaware, and Maryland. CN8 provides nightly evening news and local and regional sports coverage, community-oriented programming, as well as interactive television programs that allow viewer participation on topics from politics to community service to cooking.[87] Without the larger market coverage from clustered systems, however, such an enterprise would be impossible.[88]

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[87] CN8's excellence recently resulted in its garnering fifteen Mid-Atlantic Emmy nominations in eleven categories. In addition, twenty-five CN8 staffers received nominations including hosts, producers, and directors. *See* Press Release, *CN8: The Comcast Network Breaks Records During Mid-Atlantic Emmy Award Announcements With 15 Nominations*, August 16, 2000 (available at <http://www.cn8.com/pressroom_sub.asp>).

[88] Comcast hopes to repeat the success of its CN8 local programming model in other parts of the county. Clustering provides the resources and impetus for Comcast to develop programming such as CN8, which is local origination programming of the highest caliber.

Comcast also now has the opportunity to serve urban and inner city areas it did not previously serve, including those in Baltimore, Washington, D.C., Philadelphia and Detroit, and clustering gives Comcast's efforts greater impact. For example, through its efforts directed at schools, libraries and community centers in the inner city areas of Philadelphia, Trenton, Jersey City and Inkster, Michigan, Comcast has learned that more than infrastructure alone is needed to broaden digital access, and that the challenges vary greatly from community to community. Systematic teacher training programs are particularly needed. To that end, Comcast plans to announce shortly that it will fund an Internet training program for teachers in one of its major urban centers, in partnership with an established university experienced in providing high-quality training for educators. This program will build on training initiatives including courses made available through Cable in the Classroom's Center in Silver Spring, Maryland.

Comcast recently announced a $2.5 million initiative involving a series of public service announcements and print materials to promote computer literacy in the nation's minority communities.[89] These announcements, bearing the slogan "Get Connected: Our future depends on it," began June 19th and run through the end of September. Comcast is carrying the announcements on all of its systems, with particular frequency in those markets where there are significant minority populations (such as Baltimore, Detroit, and Philadelphia). In the second phase of this initiative, Comcast will work with its partner in this endeavor, the NAMIC Digital Bridge Alliance, to provide computer equipment and Internet services to a community center to be selected in the Detroit area.

Comcast has led the industry's efforts in providing schools with high-speed cable Internet service, with more than 700 schools and 70 libraries receiving such service free of charge

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89 *See* Press Release, *Comcast Launches Initiative to Promote Computer Literacy in Communities of Color*, June 16, 2000 (available at <http://www.comcast.com/press_room/press_releases>).

today.[90] Comcast already provides this service to every public and private school in Baltimore, Harford, and Howard Counties in Maryland, to many of those in Trenton and Jersey City, New Jersey, eastern Michigan, and now in Albuquerque, New Mexico. Pending the completion of its acquisition of District Cablevision from AT&T, Comcast intends to wire an additional 700 schools in the Washington, D.C. metropolitan area over the next few years.[91]

Comcast has established community partnerships designed to extend broadband access deeper into local communities. In Philadelphia, for example, Comcast has connected the eleven Police Athletic League ("PAL") inner-city homework centers to the Internet. The PAL centers are open after school for students aged seven to eighteen years, and each PAL center is used daily by an average of 120-180 children so that 26,000 inner city children use the PAL centers annually. Comcast donates three computers to each PAL center and provides grants, service, equipment, volunteers, and instruction in basic computer skills,[92] as well as training for police officers who are working with students and their families.[93]

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[90] Comcast also has reached commercial contracts to wire classrooms in over 200 schools.

[91] Access to computers and Internet connections represents only a part of Comcast's commitment to education in its communities. Many public schools, particularly those in lower income inner city areas, have been increasingly abandoning music education due to budgetary and other constraints, Comcast helps to promote music education in Philadelphia and Detroit public elementary schools by partnering with VH1's "Save the Music" program, providing musical instruments to local elementary schools. In doing so, this partnership builds on the proven result that early exposure to music education enhances a child's development in learning science and math.

[92] Approximately thirty children participate daily at each center in a computer outreach program known as COPS (Community Outreach Program and Service), which instructs young people to use computers and the Internet effectively for educational purposes.

[93] Earlier this summer, Comcast offered another example of its exemplary community involvement and its commitment to increasing community access to the digital world. In Philadelphia, Public Schools Superintendent David Hornbeck awarded public service learning scholarships to fifty-two students, ten teachers, and six community partners. The Comcast Foundation partnered with the School District to offer a $25,000 grant for scholarships to honor outstanding individuals participating in service learning programs that benefit local communities throughout the Philadelphia area. The scholarships can be used to support educational experiences at schools or other appropriate programs and workshops that encourage community service. *See* Press Release, *Philadelphia Public Schools Superintendent David*

These and other Comcast initiatives demonstrate that, as a result of advantages gained through clustering its systems, Comcast is able to reach urban communities and pursue deeper involvement than would be possible in smaller or geographically dispersed service areas. This involvement goes well beyond the provision of new services, and reaches across a wide range of venues, including schools, libraries, and community centers, to include a variety of initiatives to foster greater digital opportunities throughout its communities.

D. THE PROGRAM ACCESS RULES HAVE ACHIEVED THEIR PRO-COMPETITIVE PURPOSES AND NEED NOT BE EXTENDED OR EXPANDED.

The NOI seeks comment on the effectiveness of the Commission's "program access" rules.[94] These rules govern the way in which vertically integrated satellite-delivered cable programmers deal with MVPDs. Most of the specific prohibitions of these rules seek to minimize the ability of vertically integrated satellite-delivered cable programmers to favor cable operators over other MVPDs in the sale of satellite delivered programming. By the terms of the 1992 Cable Act, one part of these rules – the prohibition on exclusive contracts – will sunset on October 5, 2002 unless the Commission determines in a proceeding to be conducted next year that the restriction remains necessary to preserve and protect competition and diversity in the distribution of video programming.[95]

The Commission has inquired about the standards that should be used in next year's review of this sunset. The Commission also has asked whether the coverage of the program access rules is appropriate. The record in this proceeding plainly demonstrates that today's video

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Hornbeck Presents Service Learning Scholarships Provided by the Comcast Foundation, June 13, 2000 (available at <http://www.comcast.com / press_room/press_releases/pr000613.asp>).

94 See Notice of Inquiry at ¶ 43.

95 *See* 47 U.S.C. § 548(c)(5); *Notice of Inquiry* at ¶¶ 7, 43.

programming marketplace, already having achieved Congress' competitive objectives, does not justify expansion of the program access requirements.

1. The Program Access Rules Have Accomplished Congress' Objectives.

Congress imposed the program access requirements of Section 628 to promote competition in the market for video programming distribution.[96] Congress imposed carefully crafted "transitional" regulations to foster the rise of competition against incumbent cable operators.[97] As such, Congress intended certain of the restrictions to terminate once the multichannel video programming market became competitive.

As detailed in the comments of NCTA and as explained above, there can be no question that the video programming marketplace already has achieved a level of competition at least as robust as that envisioned by Congress. Now, every single franchise area has, in addition to at least one cable operator, at least two very strong national DBS providers. Well-funded broadband service providers and traditional overbuilders are serving many localities. Many areas have or soon will have additional wireless cable operators. Moreover, broadcasters will soon begin delivering multiple channels of digital video programming and Internet video streaming technology will become even more widespread. In this new world of intense competition for every multichannel video household, it is obvious that Congress and the Commission have seen their vision realized: the establishment of a truly competitive video programming marketplace.

96 *See* 47 U.S.C. § 521(6) ("The purposes of this title are to -- . . . (6) promote competition in cable communications and minimize unnecessary regulation that would impose an undue economic burden on cable systems."); 47 U.S.C. § 548 (defining purpose of the provision "to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market...)

97 *See, e.g., RCN Telecom Services of New York, Inc.*, 14 FCC Rcd 17093, ¶ 2 (Cab. Serv. Bur. 1999).

2. In Light of Recent Marketplace Developments, the Public Interest Now Requires the Sunset of the Exclusivity Prohibition.

The development or acquisition of exclusive programming in a competitive market can be a legitimate means of competition. Indeed, the use of exclusivity as the standard approach to distribution of programming or other content in virtually all other media, ranging from newspapers to radio, television, film and new media, has produced a great diversity of content offerings for the American public. And, in the MVPD marketplace, as MVPDs compete to provide consumers with more desirable and appealing programming, this competition ultimately increases programming options for consumers.

Competing MVPDs have sought to differentiate their services from one another by offering new programming services, including the following:

- New regional cable channels such as Comcast's CN8 and Comcast SportsNet that provide <u>local</u> and <u>regional</u> news, weather, sports, and entertainment programming in far greater depth than was previously available;
- International and foreign language programming channels such as TV Polonia on EchoStar; and
- Themed multi-channel packages such as DirecTV's "Para Todos" and EchoStar's "Dish Latino."

As Congress also envisioned, exclusive programming contracts have functioned effectively as competitive tools. To take just two additional examples, EchoStar carries Mexican television network TV Azteca and international championship-level cricket telecasts on an exclusive basis, while DirecTV holds exclusive rights to distribute dozens of NFL games outside of home markets. Consequently, Comcast subscribers interested in TV Azteca have an incentive to subscribe to EchoStar, while Comcast subscribers who want distant NFL games or a broader NFL package have an incentive to switch to DirecTV. To retain its customers in this highly competitive environment, Comcast must offer them services – including distinctive programming options – that it believes are just as desirable. In short, by increasing competition in the market for video programming distribution, exclusive contracts result in increased programming options for consumers.

The program access rules, including the prohibition on exclusivity, do not, of course, apply to all cable programmers – only to satellite-delivered programmers that are vertically integrated. In evaluating the continued importance of the exclusivity rule, the Commission must therefore weigh the fact that the prohibition applies (and can only apply) to a relatively small subset of the more than 200 cable programming networks competing for viewers today.[98]

In determining whether to permit the exclusivity prohibition to sunset in two years as Congress had hoped it could, the Commission should evaluate the following factors:

(1) the consumer and competitive benefits of permitting program exclusivity;

(2) the evolution of a competitive MVPD marketplace since 1992;

(3) the extent to which exclusive agreements have been successfully used by large non-cable MVPDs;

(4) whether there are enough alternative or competing programming networks so that even if one or more networks enter into exclusive agreements, other programming would likely remain available; and

(5) whether the Commission, even with the sunset of the exclusivity prohibition, would have tools to prevent discrimination, unfair methods of competition, or other unfair or deceptive acts or practices by vertically integrated satellite programming networks against competing MVPDs, bearing in mind the continued existence of 47 C.F.R. §§ 76.1001-76.1003.

Comcast believes that a fair and balanced evaluation will show that the arrival of effective competition in the MVPD marketplace has eclipsed the need for the exclusivity provision, rendering the restriction a regulatory anachronism. At the same time, the Commission

98 *See Sixth Annual Report*, at ¶ 202 (finding that 37 percent of programming networks are vertically integrated; presumably an even smaller percentage are both vertically integrated and satellite delivered).

still will have at its disposal ample authority to combat unlawful discrimination and unfair practices under the remaining portions of the program access rules.[99] Consequently, with the market working as Congress hoped, the time for "sunsetting" the prohibition on exclusivity has arrived.

3. The Success of Multichannel Competition Undercuts the Self-Serving Calls for Expansion of the Program Access Rules.

A few commenters in this and other proceedings have urged the Commission to dispense with the measured judgment of Congress evident in the program access provisions of the 1992 Cable Act. In particular, certain well-funded companies – BellSouth, RCN, DirecTV, EchoStar and others – argue that their fortunes are dependent upon the Commission's expansion of the program access requirements to terrestrially delivered cable programming.[100] These arguments for expanding the scope of the rules have no basis in law or public policy.

These commenters ignore the fact that Congress deliberately limited the program access rules to vertically integrated cable programming networks. The Bureau also has found that Congress deliberately limited the rules to programming that is delivered by satellite.[101]

In short, Congress already has performed the necessary balancing of competing public interests and defined the equilibrium that will promote what it believes to be the greatest public benefit. Congress' authority to make these public interest judgments does not depend upon the

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99 *See* 47 C.F.R. §§ 76.1001-76.1003.

100 See, e.g., BellSouth Comments at 5-7; RCN Comments at 2; Comments of Wireless Cable Association International, Inc. in CS Docket No. 00-132, at 1-3 (filed September 8, 2000) ("WCA Comments").

101 *See DirecTV Inc. v. Comcast Corp.*, 13 FCC Rcd 21822, ¶ 32 (Cab. Serv. Bur. 1998) and *EchoStar Communications Corp. v. Comcast Corp.*, 14 FCC Rcd 2089, ¶ 21 (Cab. Serv. Bur. 1999) (Bureau finding that Congress indicated "a specific intention to limit the scope of the provision to satellite services") (collectively, the "*SportsNet* cases").

technology at issue.[102] As a result, the Commission need not – and cannot – itself rebalance the public interest judgments made by Congress.[103] Simply stated, the Commission lacks the legal authority to rewrite the program access rules by expanding their scope to include terrestrially delivered cable programming.[104] Indeed, as the Bureau has noted, an attempt by the Commission to expand the program access rules in this manner would conflict with the expressed intentions of the legislature and clearly exceed the agency's legal authority.

In challenging the clear distinction Congress made between satellite-delivered and terrestrially delivered programming, American BroadBand, DirecTV, RCN and WCA also have charged that Comcast SportsNet deliberately evaded the Commission's rules and the Communications Act by migrating programming from satellite to terrestrial delivery.[105] The Bureau twice has rejected these allegations as factually inaccurate and legally unsound.[106] It is therefore irresponsible for these commenters to continue to reassert these frivolous arguments in this proceeding.

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102 *Cf. Sony Corp. of America v. Universal City Studios*, 464 U.S. 417, 431 (1984) ("Sound policy, as well as history, supports our consistent deference to Congress when major technological innovations alter the market for copyrighted materials. Congress has the constitutional authority and the institutional ability to accommodate fully the varied permutations of competing interests that are inevitably implicated by such new technology").

103 *See Nat'l Ass'n of Reg. Util. Comm'rs v. FCC*, 880 F.2d 422, 428 (D.C. Cir. 1989) ("Either way, we cannot countenance the Commission's attempt to rewrite the statute"); *Louisiana Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 376 (1986) ("As we so often admonish, only Congress can rewrite this statute").

104 *Southwestern Bell Corp. v. FCC*, 43 F.3d 1515, 1520 (D.C. Cir. 1995) ("The Commission is not free to circumvent or ignore that [policy] objective. Nor may the Commission in effect rewrite this statutory scheme on the basis of its own conception of the equities of a particular situation"). Although Section 628(b) does confer broad jurisdiction on the Commission, "[*i*]t cannot . . . be converted into a tool that, on a *per se* basis, precludes cable operators from exercising competitive choices that Congress deemed legitimate." *DirecTV Inc.*, 13 FCC Rcd 21822 at ¶ 33.

105 See American Broadband Comments at 10; DirecTV Comments at 8, 15; RCN Comments at 17, 23; WCA Comments at 8-9.

106 See DirecTV Inc.; EchoStar Communications Corp., supra n. 98.

In the *SportsNet* cases referred to by DirecTV, RCN, and others, Comcast and its partners acquired local telecasting rights to certain sporting events, constructed a new studio, hired new management, and created a new programming service called Comcast SportsNet ("CSN"). The Bureau rightly rejected the reckless assertions of DirecTV and EchoStar that in creating this new programming service, Comcast "evaded" the program access rules.[107] As the commenters are well aware, CSN was never a satellite-delivered service, and Comcast has legitimate economic reasons to deliver the new CSN by terrestrial means; *i.e.*, terrestrial delivery is dramatically less expensive than satellite distribution.[108] Based upon (i) the dramatic differences between the old (pre-Comcast) and new sports programming services, (ii) the incorporation of massive new programming content, and (iii) Comcast's cost-justified lease of terrestrial distribution facilities, the Bureau properly concluded in the *SportsNet* cases that Comcast did not engage "in unfair or deceptive acts in creating, packaging and distributing Comcast SportsNet," nor did it evade or otherwise violate the Commission's rules.[109]

Given the further explosive growth of both competition and consumer choice since the *SportsNet* cases were decided, no legal or policy justification exists to extend the program access rules to terrestrially delivered programming. The program access statute as narrowly tailored has helped to foster a proliferation of MVPD competitors without unduly constraining innovative regional and local programming. Indeed, CSN is precisely the sort of locally oriented

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[107] *See DirecTV Inc.*, 13 FCC Rcd 21822 at ¶ 27 ("the service in question [SportsNet] is not simply a service that has moved from satellite to terrestrial distribution but is in fact a new service"); *EchoStar Communications,* 14 FCC Rcd 2089 at ¶¶ 23, 25.

[108] *DirecTV Inc.*, 13 FCC Rcd 21822 at ¶ 32; *EchoStar Communications,* 14 FCC Rcd 2089 at ¶ 28.

[109] *DirecTV Inc.*, 13 FCC Rcd 21822 at ¶ 32 (footnote omitted). Given the facts that "Congress did not prohibit cable operators from delivering any particular type of service terrestrially, did not prohibit cable operators from moving any particular service from satellite to terrestrial delivery, and did not provide that program access obligations remain with a programming service[,]" *id.*, the Bureau simply could not have found any unfair or deceptive acts by Comcast in creating a new terrestrially delivered programming service.

programming that Congress sought to encourage when it deliberately exempted terrestrially delivered programming from the reach of the program access rules. To the extent that a "program access" issue has thwarted MVPD competition in the past, Congress last year acted to remove this barrier through its authorization of satellite delivery of local broadcast signals.

Finally, it is noteworthy that since enactment of the program access rules, only a modest number of program access complaints have been filed with the Commission. Of those forty or so complaints, only a handful have reached final decision, and nearly every one was decided favorably to the challenged cable programmer.[110] This suggests a vastly more open and successful program access environment than that described by BellSouth, RCN and DirecTV.

The continued call of a few well-funded and successful competitive MVPDs for extending the program access rules to terrestrially delivered cable programming fails to withstand both policy and legal scrutiny. As these competitors invest billions of dollars into distinguishing themselves from one another and from cable, and as they secure programming from hundred of sources (sometimes through exclusive agreements), they are more than capable of fending for themselves in the competitive programming marketplace. Comcast believes the record in this proceeding speaks for itself: no additional regulatory or legislative action benefiting these powerful competitors is warranted.

[110] *See, e.g.*, *In the Matter of Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, CC Docket No. 97-248, RM No. 9097, Report and Order (Adopted Aug. 6, 1998) (separate statement of Commissioner Furchtgott-Roth, dissenting in part) (noting in 1998 that, "since passage of the program access statute, the Commission has hardly been overrun with complaints pursuant to that provision" – with only 34 program access complaints filed within 5 years, and only 3 cases resolved in favor of the complainant). These percentages have held true for the past 2 years as well.

4. RCN's Unfounded and Misleading Allegations Regarding Comcast SportsNet Provide No Basis for Extension or Expansion of the Program Access Rules.

In an apparent effort to persuade the Commission to extend or expand the program access rules, RCN dedicates several pages of its comments to an unfounded and misleading characterization of its business dealings with CSN.[111] Although the instant rulemaking is not the appropriate forum for RCN's complaint, or for a detailed rebuttal from Comcast, we want to set the record straight.

While CSN is not required under the program access rules to provide its service to RCN, CSN has been available to RCN systems in Allentown, the Philadelphia area, and every other place for which RCN has requested service to date. The service is provided on terms that are substantially the same as those of every other CSN affiliate.[112]

All of CSN's affiliation agreements were coterminous, ending this year. All affiliates were advised earlier this year that those affiliation agreements would not be renewed on the same terms and conditions, consistent with the notice provisions of the agreements. This was a precondition to CSN's right to establish new terms.

All affiliates, including RCN, have been offered a new six-month agreement for continued carriage. CSN has business reasons quite apart from its dealings with any particular affiliate to offer a limited extension to all of its affiliates at this time. As of the date of this filing, RCN and CSN have agreed to the terms of continued distribution. Given this factual

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111 See, e.g., RCN Comments at iii-ix, 18-24

112 Comcast SportsNet has established uniform pricing for all MVPDs which it licenses, within three "distance" bands – the "inner," "outer" and "fringe" markets – emanating from the center of the Philadelphia television market.

background, the Commission should place no reliance on RCN's diatribe as a basis for considering either the extension or expansion of the program access rules.[113]

[113] RCN points to Comcast's unwillingness to permit Arlington County to condition franchise approval upon a commitment that Comcast will provide Home Team Sports to competing MVPDs. RCN claims that this demonstrates that "Comcast's inclination to withhold local sports programming [is not] confined to the Philadelphia market." *RCN Comments* at 21-22. On the contrary, what it demonstrates is that Comcast is understandably reluctant to have Arlington County impose a condition that it is without legal authority to impose. *See* 47 U.S.C. § 544(b)(1) and (f)(1) (federal preemption with respect to requirements for video programming or other information services); *Media One Group, Inc. v. County of Henrico*, Case No. 3:00C437, slip op. at 8-9 (E.D. Va. filed May 10, 2000), *appeal pending*, Record No. 00-1680(L), 00-1709, 00-1719 (4th Cir.) (preempting a Virginia county's "forced access" ordinance on these grounds); *see also*, Va. Code Ann. § 15.2-2108 (1998) and *Board of Supervisors of Fairfax County v. Horne*, 216 Va. 113, 117 (1975) (basic principle of Virginia law, Dillon's Rule, provides that county powers are fixed by statute, limited to those powers conferred expressly or by necessary implication, and those powers do not extend to regulating how Comcast provides programming to other MVPDs). Comcast has nevertheless publicly stated that it if acquires control of Home Team Sports, it will continue to offer that service to all current HTS affiliates. *See* Press Release, *Comcast to Acquire Hometeam Sports from MSC and Viacom*, July 11, 2000 (available at <http://www.comcast.com / press_room/press_releases/pr000613.asp>).

III. CONCLUSION

In its next report to Congress, the Commission should acknowledge the emergence of vigorous competition in the market for the delivery of multichannel video programming during the past year. This market is dynamic, and DBS operators and aggressive terrestrial "broadband service providers" are rapidly claiming a substantial share of the MVPD market.

The Commission's report should recognize that factors other than retail prices (*e.g.*, expanded programming choices and additional services, as well as improvements in channel capacity, signal quality, and customer service) have become the true bellwether of competition. The undeniably robust competition facing all MVPDs today, and the numerous consumer benefits that flow from this competition, make it absolutely essential that the Commission stay the pro-competitive course it has charted. In short, it is clear that no additional legislative or regulatory action is needed or warranted to preserve and protect competition in markets for the delivery of multichannel video programming.

Respectfully Submitted,

COMCAST CORPORATION

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Of Counsel

September 29, 2000

CERTIFICATE OF SERVICE

I, Ruby Brown, a secretary at the law firm of Dow, Lohnes & Albertson, PLLC, certify that on this 27th day of September 2000, I caused the foregoing Reply Comments of Comcast Corporation to be served by hand delivery on the following:

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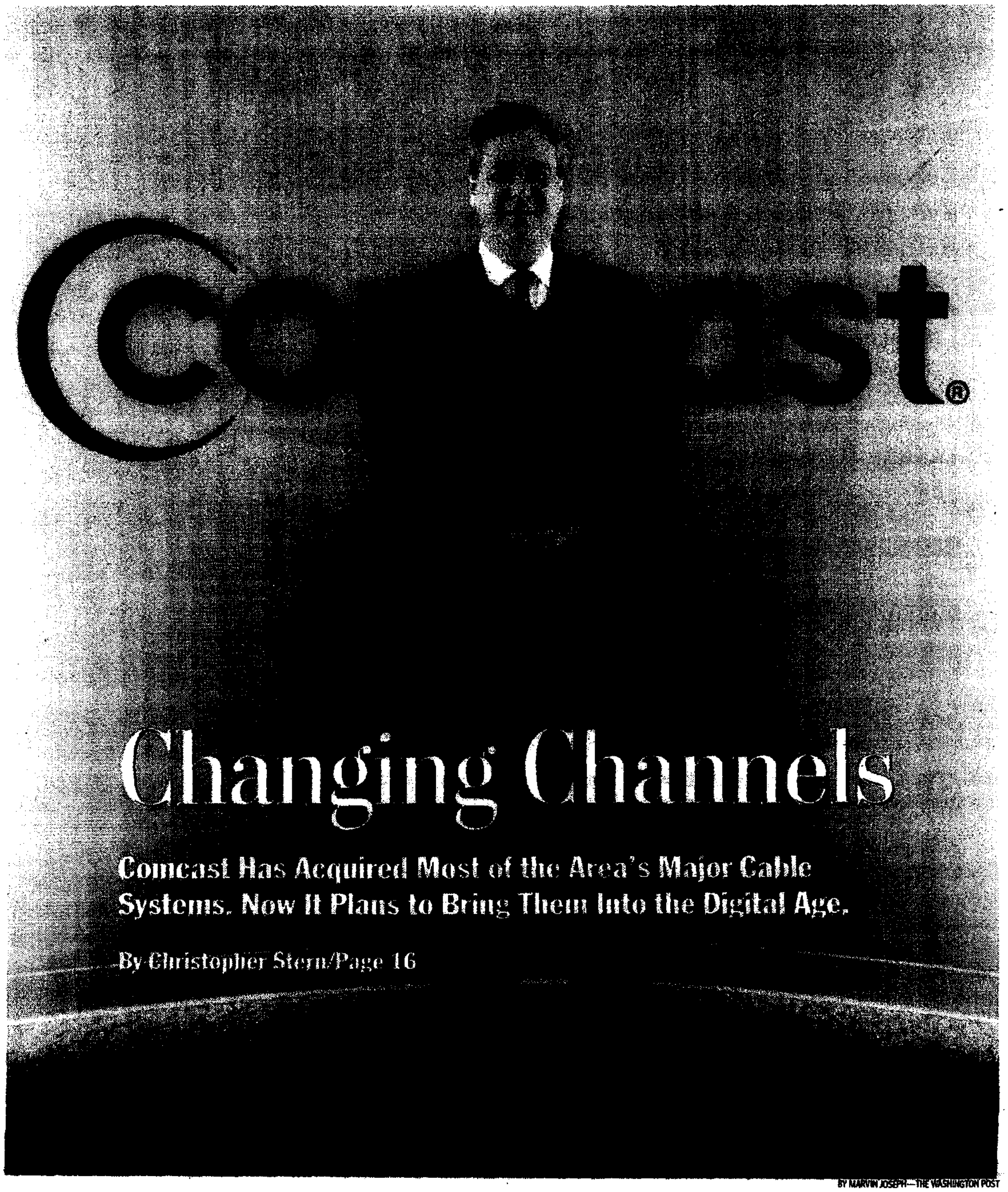
DCLIB02:373645-14

APPENDIX B

The Washington Post
BUSINESS
WASHINGTON
MONDAY, AUGUST 28, 2000



BY MARVIN JOSEPH—THE WASHINGTON POST

Steven A. Burch, president of Comcast's mid-Atlantic division, is in charge of bringing the District's cable systems up to speed.

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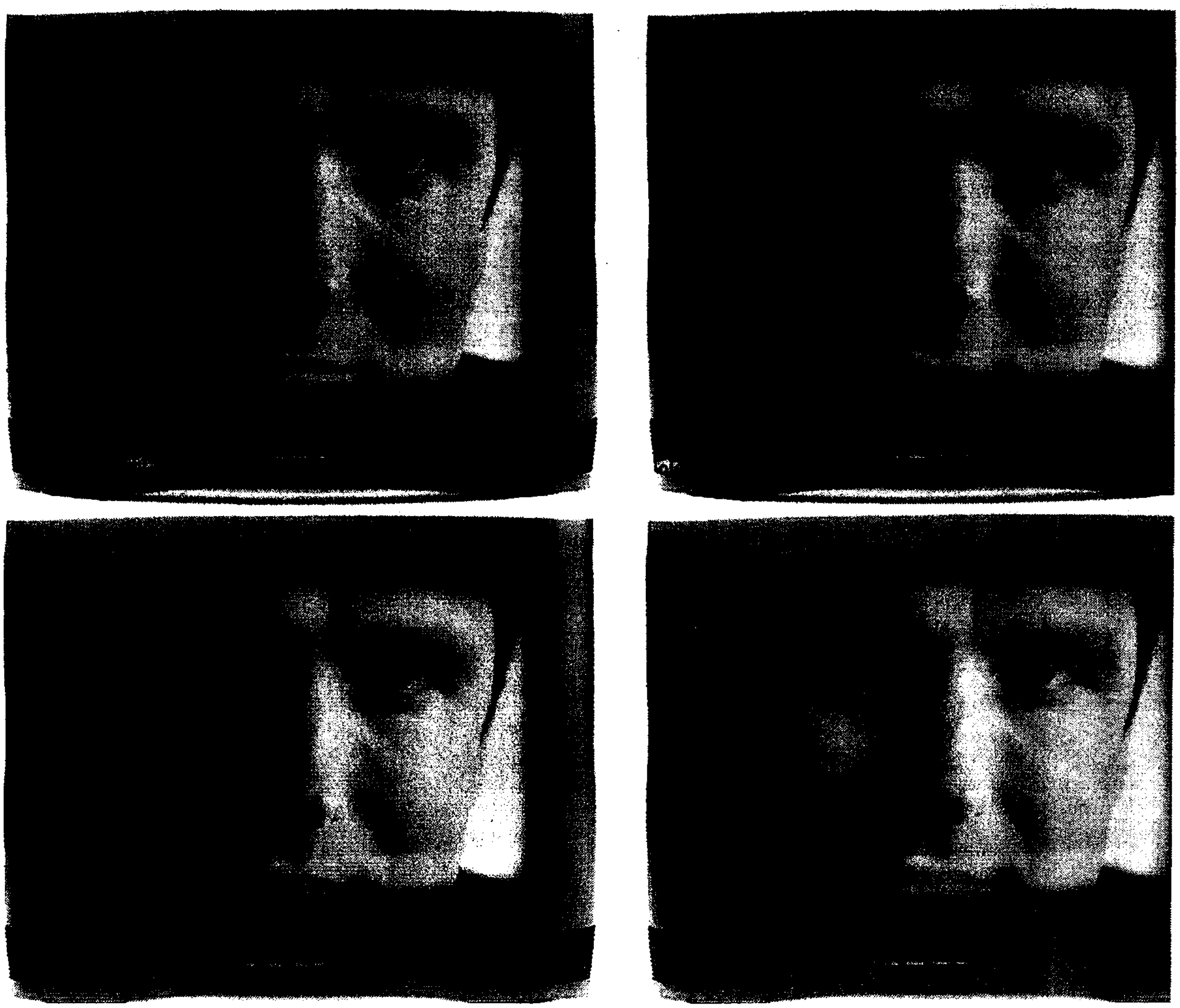
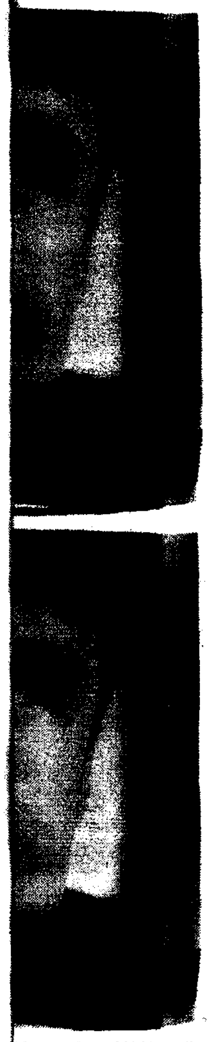


Comcast Makes Its Play

Advancing With a Flurry of Acquisitions, the Cable Firm Prepares To Reap the Benefits of a Customer 'Super-Cluster'



OST; PHOTO ILLUSTRATION BY THE WASHINGTON POST

rts.

By Christopher Stern
Washington Post Staff Writer

Less than two weeks ago, Comcast Cable Communications President Stephen B. Burke was driving around Washington, heading from meeting to meeting along the area's high-tech corridors. As he drove, he couldn't help but survey the terrain as if he were preparing to do battle. He liked what he saw.

"We think the Washington market has tremendous upside," said Burke. "The growth in the ring around Washington, D.C., is just incredible."

Comcast has been snapping up cable systems surrounding Washington for more than a year, part of a broad strategy to blanket the entire mid-Atlantic region with a melange of media, technology and sports. Comcast wants to cast a very large shadow on Washington, and not just as the name on cable boxes.

Since early 1999, the Philadelphia-based company has acquired or arranged to acquire almost every major cable system along the Beltway, with their hundreds of thousands of subscribers in the Maryland and Virginia suburbs, including Prince George's, Prince William, Anne Arundel and Calvert counties. Early next year, Comcast expects to take possession of perennially underperforming District Cablevision and rebuild it, along with the rest of its systems in the area, with state-of-the-art technology.

When Comcast finishes rewiring the area with fiber-optic lines, it will offer customers a new digital cable package that eventually will have the capacity to deliver 250 channels and high-speed Internet access. Further down the road, it also plans to compete for local telephone customers.

Among the area's high-tech executives with whom Burke met earlier this month was America Online Inc.'s Ted Leonsis. But Leonsis and Burke weren't meeting to plot Internet strategies—they were talking sports.

There was a lot of ground to cover, since Leonsis owns stakes in the Washington Wizards and Mystics pro basketball teams and the Washington Capitals hockey franchise. Comcast is in the midst of purchasing Home Team Sports, which owns the cable broadcasting rights to all three teams as well as those of the Baltimore Orioles. Comcast is acquiring HTS from its current owner, Viacom, in a deal that also includes the Minnesota-based Midwest Sports Network. (Before the deal can close, Comcast must resolve a lawsuit filed by Fox Cable Networks Group to block it.)

Although Comcast has some investments in cable networks such as E!, the entertainment news channel, the Golf Channel and QVC, it bought HTS as a way of introducing itself to the Washington area—a market where it is virtually unknown. Comcast plans eventually to rename HTS to reflect its new ownership.

Self-promotion was also behind Comcast's decision in January to spend $20 million for the naming rights to the University of Maryland's new basketball arena, which will be known as the Comcast Center. It spent an additional $5 million to have naming rights to the future arena's floor as well.

Finally, last month, in an effort to repeat its success with the Comcast Sports Network in Philadelphia, Comcast signed a deal to buy three local minor-league baseball teams from Maryland Baseball Limited Partnership—the Bowie Baysox, the Frederick Keys and the Delmarva Shorebirds. Comcast did not reveal the price of the deal, but minor-league teams have sold for $5 million to $10 million.

With the flurry of deals involving cable systems, a sports network and minor-league baseball teams, Comcast hopes to send a simple message to Washington: A major new player has arrived.

Upgrading Cable

By this time next year, Comcast expects to have 1.5 million subscribers in the Baltimore-Washington area, making it the dominant cable provider in the region. The only major hole in its local network is the Fairfax County cable system now owned by Atlanta-based Cox Communications. Like Comcast, Cox is aggressively rolling out advanced services such as high-speed Internet access.

Comcast officials are already promising that their entry into the local arena will lead to dramatically improved cable and telecommunication services for hundreds of thousands of residents. "Our strategy is to go as fast as possible to roll out the new technologies, including cable boxes, cable modems and ultimately telephone service," said Comcast chief executive Brian L. Roberts. That will be welcome news to an area that is home to a booming high-tech economy but filled with aging cable systems.

But Comcast officials are cautioning not to expect changes overnight in the cable systems it is taking over in the Washington area. "We can't fix it the day we own it," said Steven A. Burch, Comcast's mid-Atlantic division president. Burch, who has run Comcast's Baltimore area operations for 15 years, will be in charge of bringing area systems up to speed.

"I would assume it would take a good year to get it working the way we run our businesses," Burch said. Comcast is close to completing upgrades in Arlington and some other areas, but won't be able to begin work in the District until next year when it formally takes over the operation from AT&T.

Cable regulators in Baltimore County, where Comcast serves more than 200,000 subscribers, give the company approving reviews. Comcast has introduced high-speed Internet access and a new digital cable product that offers subscribers 175 channels, according to Arvin Rosen, chairman of the Telecommunications Advisory Panel for Baltimore County. In some cases Comcast has even beaten its own deadlines, Rosen said. "It has been a very positive experience," Rosen said. Comcast is also about to take possession of the AT&T cable system that serves Baltimore city.

If Comcast can repeat its Baltimore County success in the Washington area, it will be a significant gain for most local cable subscribers. Although regulators say customer service has improved recently, District Cablevision has a reputation as being one of the worst systems in the country. AT&T acquired District Cablevision in 1998 when it purchased Tele-Communications Inc. It agreed to hand over the 100,000 local subscribers to Comcast just a year later.

In an area that is home to federal lawmakers and regulators, District Cablevision's poor service has often proved to be an embarrassment to the cable industry. "It has been regarded as such a poorly run market," said Roberts. "Nobody stood up to say we are going to put our best foot forward here so that the regulators, lawmakers and customers see us in our best light." Roberts said he hopes to change that.

Getting Bigger

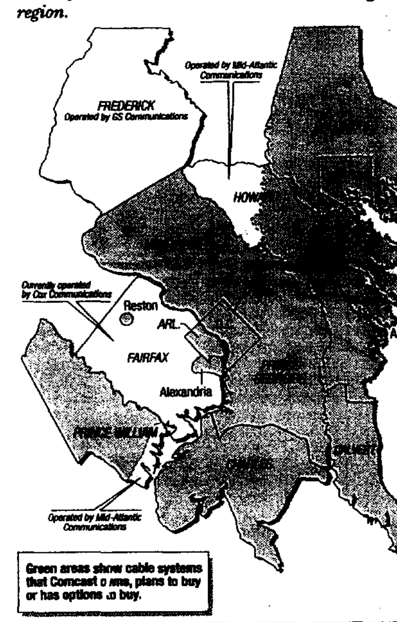
Comcast is entering the Washington market at a turning point in the history of the cable industry. After many years of false starts, cable companies are finally providing high-speed Internet service and a digital television product that is designed specifically to

See COMCAST, Page 18

Christopher Stern covers the media business for The Post.

Comcast's Shadow

Comcast's acquisitions in the last year give it the lion's share of cable viewers in the Baltimore-Washington region.



THE WASHINGTON POST

The Billion-Dollar Dinner Comment

By CHRISTOPHER STERN
Washington Post Staff Writer

Most CEOs of large companies can pinpoint a pivotal moment in their careers. For Brian Roberts, Comcast Corp.'s president, the defining moment was a dinner he had about five years ago, the night he convinced Microsoft Corp. chief executive Bill Gates to invest $1 billion in Comcast.

Roberts believes that investment forced Wall Street to reevaluate its view of the cable industry and that it blazed a trail for other moves, such as Microsoft co-founder Paul Allen's decision to create the nation's fourth-largest cable company—Charter Communications. "[Gates] jump-started this whole spiral," said Roberts.

Roberts, who was 35 at the time, was in Seattle with the heads of several other major cable companies to discuss cable industry technology. At the time, cable stocks were at all-time lows. Wall Street was preoccupied with the fledgling satellite television industry, thought by some to be capable of rendering cable obsolete.

Meanwhile, companies like Comcast were piling up debt to rebuild their systems to offer a range of services beyond television pictures. They were already contemplating the ability to move huge chunks of data, offering interactive programming and even telephone service.

Wall Street seemed divided at the time. Some analysts believed cable was not spending enough to counter satellite's ability to deliver hundreds of crystal-clear digital pictures. Others worried that the companies were spending too much. "Our stocks were at rock bottom," Roberts said.

But during a presentation, Gates was shown a chart depicting cable's aggressive plans for rewiring itself with high-capacity fiber-optic lines. According to Roberts, the Microsoft mogul expressed frustration that the telephone companies didn't seem interested in upgrading their own networks, and that satellite technology is limited when it comes to interactivity. Gates wanted a network that could handle faster computers and the more powerful software that Microsoft was developing.

Later that night at dinner, Gates turned to Roberts and asked what he could do to help cable's build-out. "I just blurted out as a joke, 'Well if you are really interested, why don't you buy 10 percent of everyone in the room here. And then that would make a real statement,' " Roberts remembers saying.

Another cable industry executive was apparently a little embarrassed by Roberts's brash suggestion and tried to change the subject, asking Gates about his upcoming trip to the Amazon. Gates turned away from Roberts and began discussing the trip.

Roberts thought the moment had passed and he had lost his chance.

"But then he turned back to me and said, 'How much will it cost?' "

Roberts suddenly got excited. "Inside my head I thought, 'Wow, he is actually thinking about it.' "

Roberts made up a number, something like $5 billion. Gates replied, "Well I do have a lot of cash at Microsoft; we could do that."

Roberts's heart started pumping. "And then the guy across the table asks Gates which part of the Amazon he is going to."

Gates turned away again and began discussing his vacation again. Then Gates turned to Roberts again, asking about the regulatory hurdles of such an investment. Roberts replied that there could be a problem under Federal Communication Commission rules if Gates took more than a 5 percent interest in any particular company. And with that, the conversation turned away for the rest of the night.

Back at his hotel, Roberts called his father, Comcast founder Ralph J. Roberts. "I think I made a fool of myself," Roberts remembers saying. But he was still very excited about the pitch he had made; he did not know Gates well, having met him only a few times.

The next morning, the cable executives met to evaluate their trip before jetting back to their respective homes. "I remember people ribbing me," Roberts says. "They said things like 'I can't believe you begged Bill Gates to bail the industry out. What were you thinking?' "

But when Roberts got back to his office in Philadelphia, there was a message waiting for him from Microsoft's chief financial officer, Gregory B. Maffei. Roberts ran next door to his father's office. "You are not going to believe this," Roberts excitedly told his dad.

Roberts called Maffei back. Gates had e-mailed from the Amazon, asking Maffei to follow up on the conversation. Thirty days later, the two companies announced that Microsoft was making a $1 billion passive investment in Comcast, which would include nonvoting stock and no seat on the board. "It was a defining mommment for all the obvious reasons," Roberts said. "For the industry, for Comcast, for myself, for my relationship with Bill."

But Roberts also points out the $1 billion investment turned out to be a wise decision. "He has made more than 500 percent on his money."

BY BARRY SWEET—ASSOCIATED PRESS

From left, Comcast Corp. Chairman Ralph Roberts, Microsoft Chairman Bill Gates and Comcast President Brian Roberts, whose table talk with Gates had a memorable outcome for the cable company.

Comcast Connects Its Cable 'Super-Cluster'

COMCAST, *From Page 16*

compete with the satellite television companies. Many cable companies, including Jones Intercable Inc. and Prime Cable, decided to sell out rather than invest hundreds of millions of dollars in their networks.

But Comcast decided to buy instead of sell. "Our whole strategy is to get bigger," said Roberts, 41, whose father, Ralph J. Roberts, founded the company in 1963.

Next year, Comcast expects to have a total of 8.2 million subscribers, making it the third-largest cable company in the country. Along the way, Comcast has spent billions of dollars laying thousands of miles of fiber-optic lines under streets and along telephone poles in every major market where it operates.

Comcast is now a $6.2 billion company (1999 sales) that reported net income of $1.1 billion last year. It is also a leader in the industry when it comes to signing up customers for advanced services such as digital cable and turbo-charged Internet access. It currently has about 950,000 digital cable subscribers—and is adding new customers at a rate of almost 58,000 a month. Comcast also has about 240,000 high-speed Internet subscribers—and is adding about 14,000 more a month.

Roberts said he is saddened that the consolidation in the industry has pushed out a generation of entrepreneurs who pioneered the industry with his father. But at the same time, Roberts notes that cable has also had the entry of new players with deep pockets, including AT&T; Microsoft co-founder Paul Allen, who owns Charter Communications Inc., the nation's fourth-largest cable company; and now AOL, which has a pending deal to purchase Time Warner Inc., the nation's second-largest cable company.

Wall Street is predicting that the big companies will continue to get bigger. "If common sense prevails, it is inevitable that the industry will consolidate again," said analyst Gary Farber of SG Cowens Securities. But Farber also said that Comcast is now big enough to survive in an industry dominated by giants.

Roberts likes to point out that the decision to invade Washington meshes well with his company's overall strategy to organize its subscribers in geographic clusters. But the truth is that Comcast probably would have steered clear of the Washington market had it succeeded last year in its effort to take over MediaOne, a Denver-based cable company.

But in a $58 billion deal, AT&T ended up walking away with MediaOne's 5 million subscribers, leaving Comcast with a $1.5 billion breakup fee as a platinum-covered consolation prize. At the same time that Comcast was collecting the breakup fee, it was negotiating with AT&T to buy cable systems in Pennsylvania, Maryland and Washington.

The systems are now part of Comcast's "super-cluster" of cable properties reaching from New Jersey to Northern Virginia. "Everything we got was clustered well with what we have," Burke said.

Tough Competition

Like other major cable companies, Comcast has been busy since 1994 buying, selling and swapping cable systems in order to create regional clusters of subscribers. The clusters, like the one Comcast is creating in the Washington-Baltimore area, allow companies to build networks more efficiently and to market their services to subscribers.

Ultimately, Comcast plans to knit its local customers into a single network that will stretch from New Jersey to Northern Virginia—covering 4.5 million subscribers. Comcast hopes the mid-Atlantic network will allow it to compete head to head with Verizon, AT&T and other telecommunications giants that are aggressively competing to offer subscribers advanced services.

The expanded East Coast super-cluster, the biggest of its kind, would also be a powerful platform for attracting advertisers. Comcast will be able to insert advertisements throughout the network, creating a huge marketing opportunity for Madison Avenue, according to Wall Street analyst Michael Florin of Wall Street research firm Gerard Klauer Mattison. Ultimately, the technology will allow advertisers to target their commercials with pinpoint accuracy, neighborhood by neighborhood. It will also give consumers the ability to respond to an ad with their remote control, perhaps by requesting more information about a mutual fund or even scheduling a test drive for a new car.

But as Comcast weaves together its huge East Coast network, it also faces unprecedented competition. Satellite companies such as DirecTV and EchoStar's Dish Network are signing up their own hundreds of thousands, if not millions, of subscribers in the same area.

In Washington, Starpower, a joint venture of Potomac Electric Power Co. and RCN, a New Jersey-based telecommunications company, is already collecting subscribers in the District for cable, Internet and telephone service.

"It's clearly a competitive business now," Roberts said. Indeed, Starpower Co-Chairman John D. McCallum said his company plans to compete with Comcast in every area of the Washington market. It is offering service in Washington and Gaithersburg and has plans to build fiber-optic networks in D.C's surrounding counties, including Montgomery, Prince George's, Fairfax and Arlington.

Although Comcast has the advantage of buying an incumbent customer base, Starpower does enjoy some advantages over its cable industry rival. For one thing, Starpower is building an end-to-end fiber-optic network, and every channel on Starpower's basic cable offering is digital. In contrast, traditional cable companies such as Comcast provide a mixture of digital and analog technology.

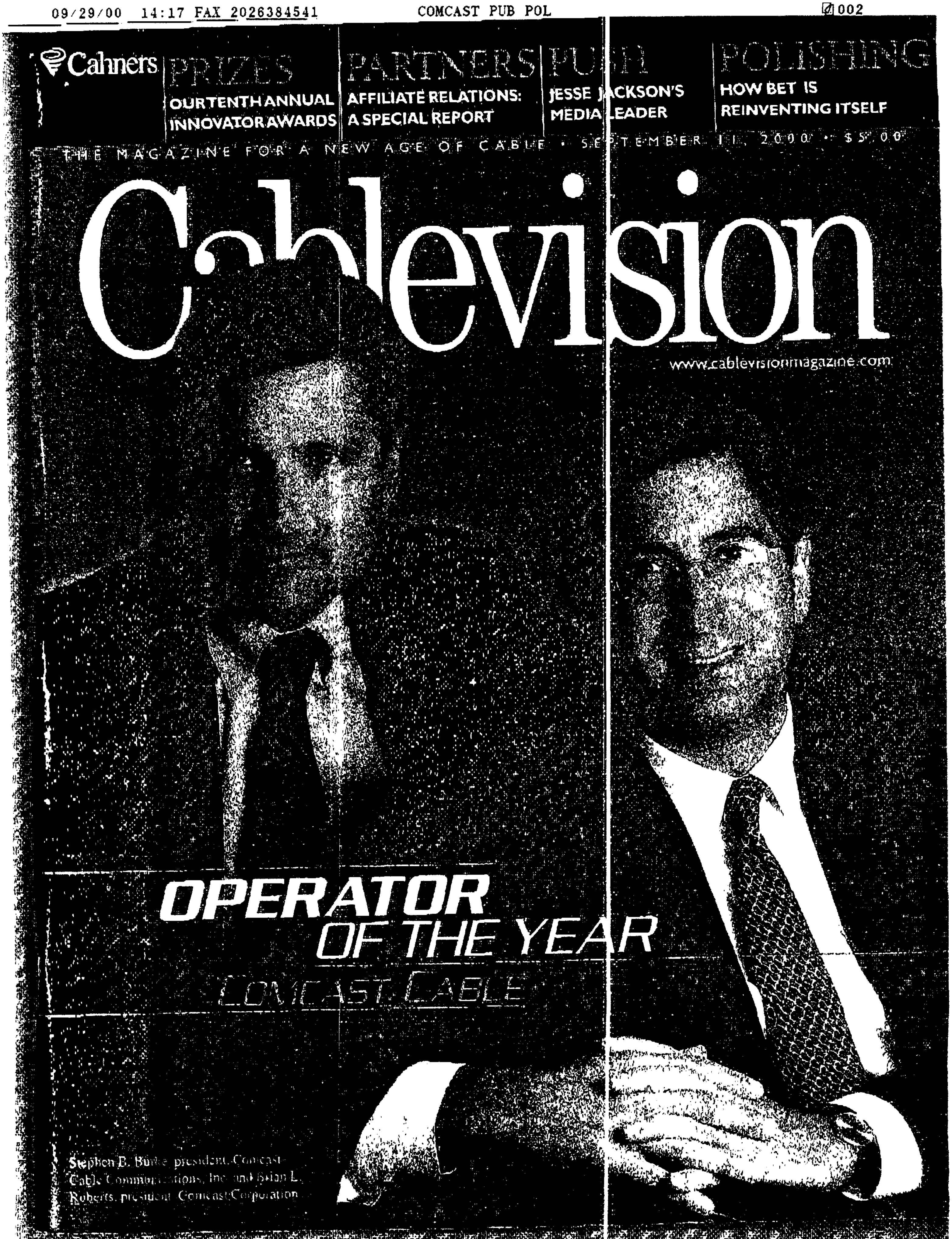
Starpower is also already marketing local and long-distance telephone service to its customers.

Telephone service is one area where Comcast is in the middle of the pack. Roberts has decided to delay the introduction of a telephone service while the company waits for a viable Internet-telephony technology to develop. When it comes to telephone competition, "Comcast has not been a leader," said Wall Street analyst Florin. "Don't expect Comcast to make a big push" into the residential telephone market until the Internet telephone technology is developed, said Florin.

Comcast may be taking a wait-and-see approach to telephone service, but it is among the most aggressive cable companies when it comes to investing in the cable systems it has acquired. "For Comcast, mission one has been to upgrade first," said Farber.

Despite all the talk about high-speed Internet access and telephone competition, Roberts said the core business of the cable industry continues to be delivering television programming. "Most people want more television. No matter what anybody says, they want more choices," Roberts said.

APPENDIX A



Stephen B. Burke, president, Comcast Cable Communications, Inc. and Brian L. Roberts, president, Comcast Corporation

Operator of the Year

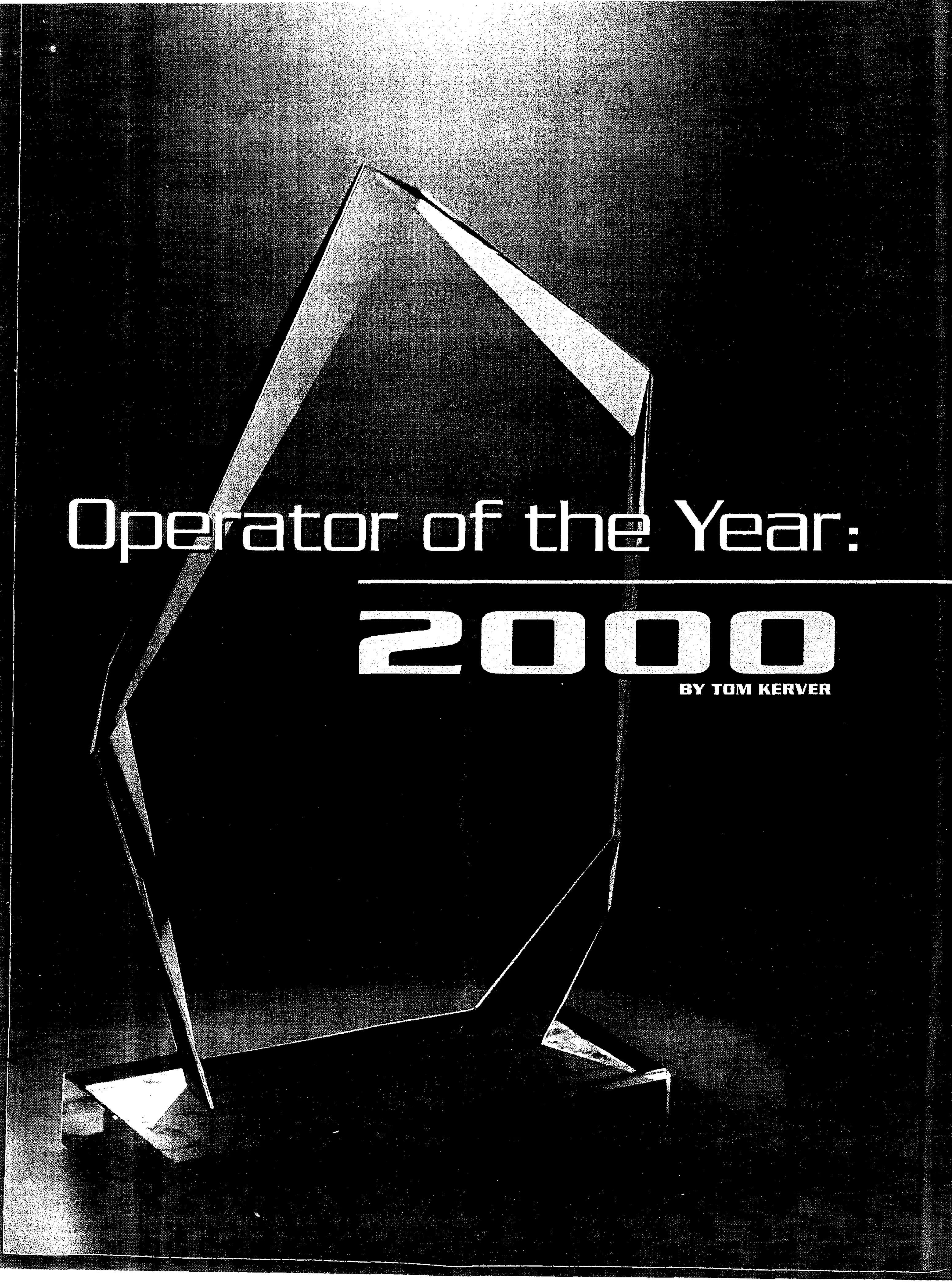
This year marks the 13th annual presentation of the *Cablevision*/Bill Daniels Operator of the Year Award, which was created in 1988 to recognize one cable company's outstanding quality of management, commitment to customer relations and community service, and financial and operational acumen. The 12 previous winners of the trophy—which for the first 10 years was an elephant statuette based on a life-size sculpture on the grounds of Bill Daniels' Cableland, but now takes the form of a crystal shard—have set the highest of standards in all those areas. They have all earned their places in the honor roll that starts on page 42A.

Along with this year's Operator of the Year, Comcast Cable, this special section also pays tribute to the winners of *Cablevision's* 10th annual Innovator Awards. And never were those awards more aptly named, for as you'll read on the following pages, each of the companies and individuals we honor here has broken ground to set new standards of excellence. All of them have honored the cable industry by their accomplishments—and *Cablevision* is honored to celebrate those accomplishments here.

TABLE OF CONTENTS

Operator of the Year: 2000

BY TOM KERVER



COMCAST CABLE

New products, superb service and powerful financial performance make this dynamic company a winner

"We're a cable company first and foremost. That's what we have always been, and that's what we will always be." Even though he has overseen a diversification of Comcast Corp.'s holdings since Comcast went public in 1972, chairman Ralph Roberts still makes sure that the company's roots are firmly planted in its core business.

And firm they are. In the past year, Comcast has set an example for the rest of the industry by demonstrating how a cable company can:

- continue to increase its subscriber base in the face of strong competition;
- bring digital cable to many more customers than projected by even the most optimistic forecasts;
- consolidate and vastly increase its presence in major markets without adversely affecting the balance sheet;
- create the world's largest single cable cluster (4.2 million homes passed);
- grow to eight million subscribers and become the industry's third-largest player while continuing to set a plant upgrade pace that never slowed or faltered. This, despite the addition of many properties that some sellers had been slow to upgrade.

Operator of the Year: 2000

And all this was accomplished without sacrificing credit worthiness. Comcast now owns 100 percent of its cable systems, which carry a relatively painless $4.45 billion in debt, all of which enjoy investment-grade ratings.

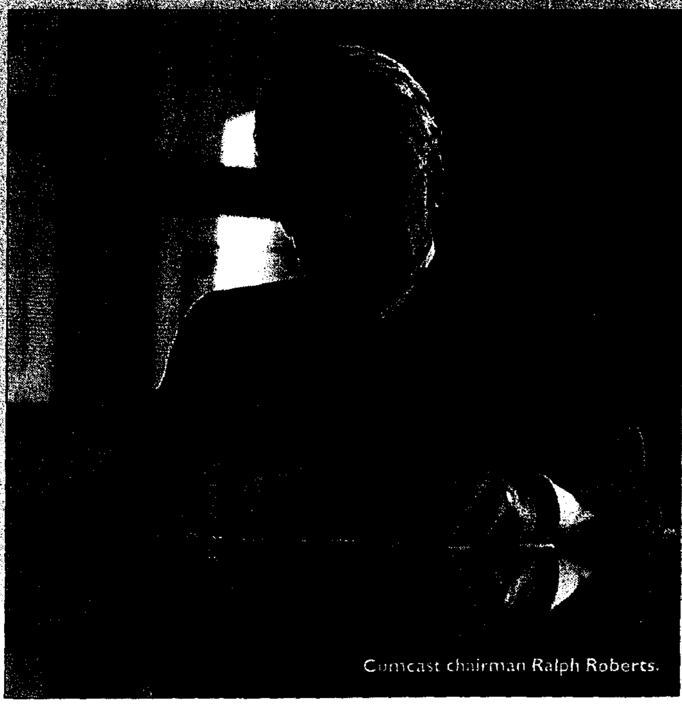
Comcast also owns major stakes in two high-flying networks—E! Entertainment Television and QVC—and is forging a regional sports-network powerhouse. These and other content investments (The Golf Channel, for example) provide additional lucrative programming opportunities that the cable operating company can (and often does) leverage for revenue enhancement.

That, in a nutshell, is Comcast Cable in 2000. And that is why the company has been chosen by the editors of *Cablevision* to receive this year's Bill Daniels/*Cablevision* Operator of the Year Award.

BURKE'S LAW

Comcast is more focused on digital cable than most cable operators. Because so much of its plant is upgraded, the cable subsidiary, under Steve Burke (who is both president of Comcast Cable and an executive VP of parent Comcast Corp.), has attained huge success in gaining customer acceptance of digital services.

"I've never seen anyone take charge of an organization as effectively as Steve has done," says his boss, Comcast Corp. CEO Brian Roberts. "We had reached a point in our business



Comcast chairman Ralph Roberts.

where we needed to augment and turbo-charge the company. We were fortunate to have the core executives from our cellular business, all of whom were expert in new products, marketing and retail. Steve created an executive committee that meshed all those talents in a unified manner."

Knowing that "you can't run a business the same as you did a decade ago," Burke set out last year, with considerable input from employees, to create a "credo" for the company. It's based on three foundations:

- concentrating on new products;
- providing superb customer service;
- maintaining strong financial performance.

Brian Roberts embraced Burke's set of goals because "it was highly focused without scattering ideas in all directions. It's reflective of the best practices of America's best companies—businesses like Jack Welch's GE, and Disney."

To communicate these goals, Burke has established Comcast University, a unique training program for every senior manager in the company. About 50 people come to Philadelphia twice each month for a three-day course focusing on the company's history, its core values, and Burke's "credo."

"The best way to get our message out quickly and effectively is to make it clear to those who have the most direct daily contact with the larger employee base," Burke explains.

Comcast University is creating additional programs for first-line supervisors and employees, according to Filemon Lopez, president of the burgeoning institution. "We regard ourselves as a center for performance improvement and human development in partnership with every segment of the company," he says.

Training, of course, is a prelude to execution—and executing is what Burke and his people have done exceptionally well.

Comcast's digital-cable plan is simple and straightforward: For an additional $9.95 a month, the customer gets a digital box with an electronic programming guide and navigator. Depending on what analog services he's currently purchasing, he also gets as many as 100 additional channels, including 35 premium channels.

"It's been so popular that our biggest challenge has been executing to meet demand," says Burke.

Burke's digital strategy is both defensive and offensive. Defensively, he's keeping Comcast's best customers attached to their cable company, and holding the line against defections to satellite or other competitive offerings. Offensively, he's accomplishing three things:

1. increasing revenues and cash flow from existing customers;
2. adding new customers through the attractiveness of the digital offering;
3. getting digital set-tops into customer homes, so that it will be easy for customers to expand on their current service base as new products and offerings are added in the future.

In fact, Burke has already begun to capitalize on the success of the digital-cable product. He's doing this in a couple of ways:

· On a trial basis, he's introducing personal video-recording systems to customers in Cherry Hill and Burlington County, N.J. The idea behind these first-of-a-kind TiVo and ReplayTV tests, says Burke, is to "make sure we stay abreast of promising new technologies, so satellite doesn't get a lead."

· He's offering an expanded version of the $9.95 digital service. For an additional $5 a month (total $14.95), customers can order 33 additional digital channels. Burke claims this will give digital customers "the widest array of program choices available in any video product today." The 33-channel package includes 17 channels of commercial-free, uncut movies.

NEW PRODUCTS, OLD PRINCIPLES

But as successful as Comcast's digital-cable offerings have been (now more than one million subs), they aren't the only reason for the cable company's 11 percent pro-forma cash flow growth in the most recent quarter of this year (a double-digit trend, incidentally, that has been consistent for several years).

The @Home high-speed data service has also been phenomenally successful for Comcast. At the beginning of last month, Comcast serviced more than 260,000 @Home customers and was adding new ones at the rate of 4,200 per week.

Between digital cable and @Home, the bottom line for Comcast is that, during the second quarter alone of this year, the company added nearly 1.2 million new revenue-generating units (RGUs), the new standard of measurement for customer revenue enhancement. On an apples-to-apples basis, Comcast ended the second quarter of 2000 with 3.5 times as many RGUs as it had as of June 30, 1999.

"It's true," Brian Roberts admits, "that we've probably lost about 20,000 customers to satellite. But while that was happening, we've added one million new RGUs. That's a 50-to-1 ratio of good to bad. And I'll be the first to admit that the presence of competition was a huge stimulus to us to make this happen."

This strong growth rate was, of course, enabled by upgraded platform. Over the past several years, Comcast has pursued one of the industry's most aggressive plant-upgrade programs. More than 85 percent of the properties it owned prior to a recent acquisition spate have been upgraded. In addition, newly acquired properties (from Lenfest, MediaOne and AT&T, for example) are being rapidly upgraded at a rate of about 250,000 homes per month.

Comcast has also been a leader using Internet-protocol telephony. Though the company has an agreement in principle to offer switched telephony in conjunction with AT&T, it has moved more aggressively on the IP-telephony front. Comcast was the first cable operator (Time Warner and Charter followed later) to launch an IP-telephony trial—in Union Township, N.J. "We'd still like to do something with AT&T," says Brian Roberts, "but it's not on the hot burner right now."

Other cable-related Comcast ventures have been equally successful. Majority investments in QVC, E! Entertainment Television and the Comcast-Spectator regional sports network have all shown double-digit cash flow growth. Given this excellent track record, it's hardly surprising that 13 of the 18 Wall Street analysts who cover Comcast have rated its stock "strong buy," the highest possible rating (the other five, incidentally, all rate the stock as "buy"). That gives Comcast one of the best composite rating scores among all telecommunications companies in America. And it also helps explain why Comcast is aggressively moving to repurchase up to $500 million of its own stock.

Both Brian and Ralph Roberts credit Burke for this strong performance. "Steve's style is one of real inclusiveness. Everyone wants to be led, but they want to be led by someone they respect," Brian says.

Adds Ralph Roberts proudly: "Not many companies started in one generation, adhered to their principles, never allowed themselves to become bureaucratic and—through all the turmoil—moved aggressively to change with the times. I suppose every corporation would like to do something like that. We think we've accomplished it. We're new and different, but the spirit of Comcast is still strong. The people are making it happen."•

"I'll be the first admit that the pressure of competition has been a huge stimulus [for] us."

—Brian Roberts, Comcast Corp. president