Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Telecommunications Services Inside Wiring	)	CS Docket No. 95-184
	)	
Customer Premises Equipment	)	
	)	
In the Matter of	)	
	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable Home Wiring	)	MM Docket No. 92-260

COMMENTS OF
THE NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

The National Cable & Telecommunications Association ("NCTA") hereby submits its comments on the Further Notice of Proposed Rulemaking in this proceeding. NCTA is the principal trade association of the cable television industry. NCTA's members include the operators of cable television systems serving more than 90% of the nation's cable television subscribers. NCTA also includes operators of more than 200 cable program networks, as well as companies that provide equipment and services to the industry. NCTA has participated in all stages of this rulemaking proceeding and was the petitioner in the court proceeding that has resulted in this latest stage of the proceeding.

INTRODUCTION

In its "Reconsideration Order" in 2003, the Commission ruled that wiring located behind "sheet rock" would be deemed "physically inaccessible" for purposes of determining the demarcation point between home wiring and home run wiring in multiple dwelling unit buildings ("MDUs"). NCTA petitioned for review in the United States Court of Appeals for the District of

Columbia Circuit, arguing that uncontroverted record evidence showed that accessing wiring behind sheet rock was neither costly nor difficult and resulted in no damage to a MDU's structural elements, and that the Commission had not explained how or why it had reached a contrary conclusion.

With respect to damage, the Court of Appeals agreed that

> nothing in the Commission's Order explains why or how accessing wiring behind sheet rock requires "significant modification of, or significant damage to" the sheet rock. The Order simply concludes that sheet rock is more like brick or cinder block than molding, because sheet rock, cinder block, and brick are purportedly used to form ceilings and hallways and molding is not. The FCC's Order fails to explain the relative nature of the "damage" or "modification" related to accessing wiring behind sheet rock.[1]

The Court also found that the Commission had offered "no support" for its conclusion that accessing wiring behind sheet rock would "add significantly to the physical difficulty and/or cost" of connecting to a residential unit's wiring: "The Commission candidly acknowledges that cutting through sheet rock is easier than boring through brick, metal, or cinder block, and then offers no support whatsoever for the conclusion that the lesser physical difficulty and cost are 'significant.'"[2] Having concluded that the Commission had offered "no reasoned basis" for its amendment to the rules, the Court granted NCTA's petition and remanded the case to the Commission "for further consideration consistent with this Judgment."[3]

In its Further Notice, the Commission asks for comments on whether wiring behind sheet rock meets the key elements of its definition of "physical accessibility," so that it might provide a reasoned basis for whatever it determines. On these matters, evidence from those with relevant

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[1] *National Cable & Telecommunications Association v. FCC*, No. 03-1140, 2004 WL 335201, p.3 (D.C. Cir. Feb. 17, 2004, unpublished).

[2] *Id.*

[3] *Id.*

expertise is particularly important. The practical question of whether or not the costs and damage associated with cutting and repairing sheet rock are "substantial" is one that does not naturally occur within the regulatory or policy expertise of the Commission. As a result, affidavits and declarations of those who actually engage in these operations should be highly relevant to the Commission's determination.

I. THE EXISTING RECORD ALREADY ESTABLISHED THAT WIRING LOCATED BEHIND SHEET ROCK IS NOT "PHYSICALLY INACCESSIBLE."

The Further Notice ignores the fact that there already is a record in this proceeding. And virtually all the affidavits and declarations in that record show that the wiring behind sheet rock does *not* meet the test of "physical inaccessibility."

For example, a declaration from the Vice-President/Engineering of Time Warner Cable's Northeast Ohio division included the following statement:

> In a single riser and hallway home run architectures, as is found in many high-rise apartment buildings, cooperatives, and condominium complexes, it is not difficult to access the demarcation point of each unit through a 2" x 4" hole cut into the hallway sheet rock wall. After the cut in the sheet rock is made, the old MVPD's wiring is tapped off, and the hole is repaired either by patching and painting over the hole or with an attractive wall plate that matches the interior decoration of the building. *This procedure is not difficult for an experienced MVPD service technician to perform, is relatively inexpensive ($25.00) and should have no adverse impact on the structural elements or the structural integrity of the building.*[4]

Similarly, Comcast Cable Communications, Inc. submitted an affidavit of its Vice President of Engineering, explaining that

> [s]heet rock is a relatively soft and porous material which is widely used in modern interior construction. Cutting, drilling, opening, plugging, spackling, taping, sanding, painting, and repairing sheet rock are insignificant and commonplace procedures which cable television personnel perform during the

[4] Declaration of Al Costanzi, ¶ 6 (filed with Opposition of Time Warner Cable) (Oct. 22, 1998).

> installation of cable television inside and home run wiring in both single family and multi-family dwellings and *do not result in significant modification of or damage to a building's structural elements*. Restoration of sheet rock subsequent to such installations is accomplished *easily and inexpensively*, and is standard operating procedure in the cable television industry.[5]

Similar affidavits and declarations submitted by engineers at Suburban Cable TV Co., Adelphia Communications Corporation, and Cablevision Systems Corporation confirmed these facts.[6] For the Commission's convenience, all these affidavits and declarations are attached to these comments.[7]

II. ADDITIONAL DECLARATIONS AND AFFIDAVITS CONFIRM THAT THERE IS NO SIGNIFICANT DIFFICULTY, COST OR DAMAGE ASSOCIATED WITH ACCESSING WIRING BEHIND SHEET ROCK.

In response to the Commission's request for further evidence, several companies have provided NCTA with declarations and affidavits. These additional statements, which are attached to these comments,[8] indicate that it is still the case that wiring behind sheet rock can be readily accessed with minimal cost, difficulty or damage to structural elements. According to John Chamberlain, President of JC Communications, which is "an independent contractor that specializes in installing internal cable television distribution wiring in multiple dwelling unit ('MDU') buildings,

> [i]n the typical MDU building, it is *not difficult* to access the demarcation point of each unit through a small cut into the hallway sheet rock wall. Once the cut is made, our installers simply interconnect the wires and then *quickly, and cheaply* I might add, repair the hole by patching, sanding and painting it over, or by placing

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[5] Affidavit of John Donahue, ¶ 4 (filed with Comments of Comcast Cable Communications, Inc.) (Oct. 22. 1998).

[6] *See* Declarations of Christopher P. Patterson and Jack Rockwell (filed with Opposition of Adelphia Communications Corporation and Suburban Cable TV Co., Inc.) (Oct. 22, 1998).

[7] Attachment B, "Affidavits and Declarations Previously Submitted."

[8] Attachment A, "Affidavits and Declarations in Response to the Further Notice of Proposed Rulemaking."

> a plastic wall plate over the hole. This procedure is *not difficult* for an experienced installer to perform and has *no adverse impact on the esthetics or structural integrity* of the building.[9]

Similarly, David Jordan, who has been a Construction Coordinator for Bright House Networks and, previously, Time Warner Cable in Pinellas County, Florida for nine years, confirms that "it is *not difficult* for a cable operator to work with sheet rock as compared to brick or concrete while installing wiring in an MDU. Sheet rock is *not considered a structural element* of a building. Sheet rock is relatively *easy to cut and repair*."[10]

Joseph Danno is Vice President, Northeast Division, of Midtown Express, Inc., an independent contractor that specializes in installing internal cable television distribution wiring in MDU buildings. In his attached declaration, Mr. Danno states that installers under his supervision "*commonly* need to make cuts and/or holes in sheet rock walls and other non-structural building materials in order to access home wiring within individual subscriber residences."[11] The procedure "is *not difficult* for an experienced installer to perform, is relatively *inexpensive* and should have *no adverse impact on the structural elements or the structural integrity* of the building."[12] Indeed, according to Mr. Danno, "[a]fter this repair work is properly completed, there are *no lasting adverse esthetic effects* to the building. In my over 25 years experience, I have never seen any instance where the process of accessing cable wiring behind and repairing sheet rock walls has ever caused any structural damage to the MDU building being worked on."[13]

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[9] Declaration of John Chamberlain, ¶ 4 (emphasis added).

[10] Declaration of David Jordan, ¶ 2 (emphasis added).

[11] Declaration of Joseph Danno, ¶ 4 (emphasis added).

[12] *Id.*, ¶ 5 (emphasis added).

[13] *Id.*, ¶¶ 6, 7 (emphasis added).

The affidavits of John Kuhn, President and CEO of Prince Telecom, Inc, and William J. Kelly, Executive Vice President of General Fiber Communications, echo these points. Mr. Kuhn and Mr. Kelly have performed or overseen pre-wiring and post wiring of MDUs for 18 years and 26 years, respectively. They each note that the procedure for accessing wiring behind sheet rock is "common," "does not affect the aesthetics of the building," is "not difficult for an experienced installer to perform," and is "inexpensive."[14] They also states that "[t]he *structural integrity of sheet rock is not compromised* by the cut or hole in the sheet rock or the subsequent repair to the sheet rock.[15] But most importantly, they point out that the procedure "is *not significantly more difficult or expensive than accessing wiring that is behind molding*."[16]

This latter fact should be dispositive, because, as noted above, the Commission has already determined that "wiring embedded in brick, metal conduit, or cinder blocks would likely be physically inaccessible" but that "wiring enclosed within hallway molding would not."[17] If accessing wiring behind sheet rock is, in all respects that are relevant under the rules, not significantly different than accessing wiring behind molding, it follows that a demarcation point behind sheet rock is *not* "physically inaccessible."

III. WHETHER OR NOT BUILDING OWNERS CHOOSE TO ALLOW CABLE OPERATORS TO ACCESS WIRING BEHIND SHEET ROCK IS NOT AND SHOULD NOT BE RELEVANT TO THE RULES' DEFINITION OF WHETHER SUCH WIRING IS "PHYSICALLY INACCESSIBLE."

The new affidavits and declarations submitted with these comments add more weight to a record that was already completely one-sided on the elements of cost, difficulty and damage that

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[14] Affidavits of John Kuhn and William J. Kelly, ¶¶ 3, 4, 5.

[15] *Id.*, ¶ 7 (emphasis added).

[16] *Id.*, ¶ 6 (emphasis added).

[17] 47 C.F.R. § 76.6(mm).

define "physical inaccessibility." In the face of that record, those who had asked the Commission to declare that wiring behind sheet rock was inaccessible offered no evidence of significant cost, difficulty, damage or modification of structural elements.

RCN, for example, offered no declarations or affidavits disputing the showings that wiring behind sheet rock can be, and is, readily accessed without significant damage or expense. Moreover, RCN did not seriously dispute the affidavits and declarations of the cable operators. In fact, it conceded "the obvious point that sheet rock hardly involves the kind of significant impact, costs or difficulties presented by the Commission examples of brick, metal conduit or cinder block do [sic]."[18]

Instead, RCN maintained that "the costs and mechanics of sheet rock reconstruction *are irrelevant because MDU owners bar RCN from accessing the existing wiring or installing its own wiring*."[19] But nothing in the Commission's definition of physical inaccessibility suggests that the landlord's willingness to *allow* a service provider to access wiring at a particular point should determine whether the point is, in fact, accessible. To the contrary, as NCTA pointed out to the Commission, if that were the test,

> MDU owners and alternative providers could readily circumvent the Commission's decision not to bring home run wiring within the scope of the [cable home] wiring rules by moving the demarcation point. If a landlord could make a demarcation point 'physically inaccessible' simply by refusing to allow '*any* disruption' to its walls or ceilings, it could effectively force an incumbent to sell its *home run wiring* to an alternative provider *at replacement cost* where no such transfer would be required by the home run wiring rules. . . .

Opposition of NCTA, CSR-5311, at 7-8 (emphasis added).

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[18] RCN Reply to Oppositions at 12 n.25 (Nov. 2, 1998).

[19] *Id.* at 12 (emphasis added). In that same footnote, RCN cryptically contended, however, that "[s]urely, accessing brick or metal conduit is no more difficult than sheet rock than accessing sheet rock is compared to hallway molding, which easily can be opened without any disruption to residents. RCN herein merely seeks clarification of where on the scale accessing sheet rock *over the MDU owner's objection* falls."

In the Further Notice, the Commission specifically asks whether it is "likely that many MDU owners and managers would not allow new service providers to cut, open, spackle, sand, and paint or replace wallpaper or other finishings on the common walls and ceilings on each floor of their MDUs in order to install new lines for service." But the definition of physical inaccessibility does not – and, as we have shown, should not – turn on the building owners' willingness to allow access.

If all that cutting, painting, spackling, and sanding to which the Commission refers actually was difficult and expensive and caused damage to the building's structural elements, then the wiring would be deemed inaccessible, whether or not the building owner would have been willing to allow access. But if, as the evidence in the record actually shows, wiring can be accessed behind sheet rock without significant difficulty, cost or damage to structural elements, then the demarcation point is accessible whether or not the building owner permits a new provider to access wiring at that point.

CONCLUSION

For the foregoing reasons, the evidence clearly establishes that wiring located behind sheet rock should not be deemed "physically inaccessible," as that term has been defined for purposes of the Commission's cable home wiring and home run wiring rules.

Respectfully submitted,

/s/ Daniel L. Brenner

Daniel L. Brenner
Michael S. Schooler
National Cable & Telecommunications Association
1724 Massachusetts Ave., N.W.
Washington, D.C. 20036-1903
(202) 775-3664

November 15, 2004

ATTACHMENT A

"Affidavits and Declarations in Response
to the Further Notice of Proposed Rulemaking"

DECLARATION OF JOHN CHAMBERLAIN

I, John Chamberlain, hereby declare under penalty of perjury as follows:

1. I am the President of JC Communications, an independent contractor that specializes in installing internal cable television distribution wiring in multiple dwelling unit ("MDU") buildings. I have been involved in the cable television industry since 1992, specializing in performing internal wiring installations in MDU buildings.

2. In my current capacity, I have managerial and supervisory responsibility over approximately five wiring installers who perform installations involving both new MDU buildings under construction as well as upgrade, repair and installation of broadband wiring in existing MDU buildings.

3. In the performance of their normal duties, installers under my supervision are routinely required to cut and repair access holes in sheet rock. In particular, in order to postwire an MDU after the building has been constructed, installers commonly need to make cuts and/or holes in sheet rock walls and other non-structural building materials in order to access home wiring within individual subscriber residences.

4. In the typical MDU building, it is not difficult to access the demarcation point of each unit through a small cut into the hallway sheet rock wall. Once the cut is made, our installers simply interconnect the wires and then quickly, and cheaply I might add, repair the hole by patching, sanding, and painting it over, or by placing a plastic wall plate over the hole. This procedure is not difficult for an experienced installer to perform and has no adverse impact on the esthetics or structural integrity of the building.

John Chamberlain

Dated: November 10, 2004

In the Matter of: Telecommunications Services Inside Wiring Customer Premises Equipment	)))))	CS Docket No. 95-184
In the Matter of: Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable Home Wiring	))))	MM Docket No. 92-260

DECLARATION OF DAVID JORDAN

I, David Jordan, hereby declare under penalty of perjury as follows:

1. I have been employed by Bright House Networks (and previously Time Warner Cable) as a Construction Coordinator in Pinellas County, Florida for nine (9) years. In this capacity I am responsible for wiring new Multiple Dwelling Unit ("MDU") buildings and for wiring pre-existing MDUs.
2. Based on my experience, it is not difficult for a cable operator to work with sheet rock as compared to brick or concrete while installing wiring in an MDU. Sheet rock is not considered a structural element of a building. Sheet rock is relatively easy to cut and repair.
3. It is not unusual for Bright House Networks installers to have to cut into drywall in order to access inside wiring. The installer can tone existing wire to locate it behind sheet rock. A cut is made in the drywall, existing wiring is accessed in the wall and then the cut is repaired using a drywall patch and paint or a wall plate. Once the first unit has been installed, the same method may be used for other units in the building. The entire process does not take more than one to one and half hours for the first unit and would not add substantial cost over installing wire inside molding.

David Jordan

David Jordan

Dated: November 9, 2004

DECLARATION OF JOSEPH DANNO

I, Joseph Danno, hereby declare under penalty of perjury as follows:

1. I am the Vice President of Midtown Express, Inc., an independent contractor that specializes in installing internal cable television distribution wiring in multiple dwelling unit ("MDU") buildings.

2. I have been involved in the cable television industry since 1977, holding positions with various companies across the United States and Puerto Rico. My career has included substantial involvement in the field performing actual installations, as well as various managerial and supervisory positions.

3. In my current capacity, I have managerial and supervisory responsibility over approximately 200 installers in the field who perform installations involving both new buildings under construction as well as upgrade, replacement and installation of broadband wiring in existing buildings. Based on my experience, it is common for broadband wiring service installation technicians to be experienced in working with, installations located behind sheet rock (also commonly referred to as "drywall").

4. In the performance of their normal duties, installers under my supervision are routinely required to cut access holes in sheet rock. In particular, in order to postwire an MDU after the building has been constructed, installers commonly need to make cuts and/or holes in sheet rock walls and other non-structural building materials in order to access home wiring within individual subscriber residences.

5. In the typical high-rise apartment building, cooperative, or condominium complex, it is not difficult to access the demarcation point of each unit through a 2" x 4" hole cut

into the hallway sheet rock wall. After the cut in the sheet rock is made, the home wiring is readily accessible and may be interconnected with the wiring of a competing provider. The wiring of the previous provider can then be tapped off to prevent signal leakage.

6. After the installation is complete, the cut in the sheet rock is easily repaired by a third party through patching, sanding and painting over the hole in a manner compatible with the interior decoration of the building or through installation of an innocuous wall plate. After this repair work is properly completed, there are no lasting adverse esthetic effects to the building. These procedures are not difficult for experienced technicians to perform, are relatively inexpensive and should have no adverse impact on the structural elements or the physical integrity of the building.

7. In my over 25 years experience, I have never seen any instance where the process of accessing cable wiring behind sheet rock walls has ever caused any structural damage to the MDU building at issue.

Joseph Danno

Dated: November 11, 2004
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AFFIDAVIT OF JOHN KUHN

1. My name is John Kuhn and I am the President and CEO for Prince Telecom, Inc.

2. In this capacity I have performed or overseen pre-wiring and post wiring of Multiple Dwelling Unit complexes (MDUs) for 18 years.

3. In performing such pre-wiring and post wiring work, it is common to make cuts and/or small holes in sheet rock walls.

4. The cuts and holes can be repaired by patching the sheet rock and painting the patch to match the interior decoration of the building or can be covered with a wall plate. A properly performed repair does not affect the aesthetics of the building.

5. This procedure is not difficult for an experienced installer to perform.

6. This procedure is not significantly more difficult or expensive than accessing wiring that is behind molding.

7. The structural integrity of sheet rock is not compromised by the cut or hole in the sheet rock or the subsequent repair to the sheet rock.

I declare under penalty of perjury that the facts stated herein are true and correct to the best of my knowledge, information and belief.

John Kuhn
President and CEO
Prince Telecom, Inc

Dated: November 11, 2004

STATE OF Delaware)
) ss.
COUNTY OF New Castle)

The foregoing instrument was acknowledged before me this 11th day of November, 2004 by John Kuhn, of Prince Telecom, Inc, on behalf of the corporation. He/she is (personally known to me) or (has presented _____ (type of identification) as identification and did/did not take an oath.

Witness my hand and official seal.

MARYANN P. RIDALL

Notary Public

(Print Name)

My commission expires: 3-24-05

MARYANN P. RIDALL
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires Mar. 24, 2005

AFFIDAVIT OF WILLIAM J. KELLY

1. My name is William J. Kelly and I am the Executive Vice President for General Fiber Communications.

2. I have worked in the cable industry for 26 years. During the past 26 years, I have worked for many cable operators performing pre-wiring and post wiring of Multiple Dwelling Unit complexes (MDUs).

3. In performing such pre-wiring and post wiring work, it is common to make cuts and/or small holes in sheet rock walls.

4. The cuts and holes can be repaired by patching the sheet rock and painting the patch to match the interior decoration of the building or can be covered with a wall plate. A properly performed repair does not affect the aesthetics of the building.

5. This procedure is not difficult for an experienced installer to perform.

6. This procedure is not more difficult or expensive than accessing wiring that is behind molding.

7. The structural integrity of sheet rock is not compromised by the cut or hole in the sheet rock or the subsequent repair to the sheet rock.

I declare under penalty of perjury that the facts stated herein are true and correct to the best of my knowledge, information and belief.

William J. Kelly
Executive Vice President
General Fiber Communications

Dated: November 11, 2004

STATE OF Maryland)
) ss.
COUNTY OF Cecil)

The foregoing instrument was acknowledged before me this 12th day of November, 2004 by William J. Kelly of General Fiber Communications, on behalf of the corporation. He/she is (personally known to me) or (has presented Driver's License (type of identification) as identification and did/did not take an oath.

Witness my hand and official seal.

Mary F. Green
November 12, 2004

Notary Public

(Print Name)
Mary F. Green

My commission expires: 02-24-07

MARY F. GREEN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires February 24, 2007

ATTACHMENT B

"Affidavits and Declarations
Previously Submitted"

Al Costanzi
Vice President - Engineering and Purchasing
Northeast Ohio Division

RECEIVED

OCT 26 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re: RCN-BeCoCom, L.L.C.	)	
Inside Wiring - Request for Declaratory Ruling	)	CSR-5311

OCT 26 9 32 AM '98

DECLARATION OF AL COSTANZI

I, Al Costanzi, hereby declare under penalty of perjury as follows:

1. I have been employed by Time Warner Cable as Vice-President, Engineering/Northeast Ohio Division for 8 years. In this capacity, I am responsible for new wiring and retro wiring of Multiple Dwelling Unit complexes.

2. Based on my experience, it is common for MVPD service installation technicians to be experienced in working with, modifying and repairing sheet rock. In order for an MVPD to postwire a building such as an MDU, its installation employees and subcontractors often need to make cuts and/or holes in sheet rock walls and other non-structural building materials in order to access home wiring within individual subscriber residences.

3. In my experience, there are four general configurations for home run wiring installations to serve MDU building.

530 S. Main St., Suite 1751, Akron, Ohio 44311, 330.633.9203
A Division of Time Warner Entertainment, L.P.

a. Exterior - In this configuration, the home run wiring runs directly up the exterior of the building, and enters each unit through a hole drilled through the exterior wall. The exterior home runs might be exposed, or they might be enclosed in a casing, typically either metal or plastic. In all cases, the point of demarcation, as presently defined by the FCC, is readily accessible at or about 12 inches from where the wiring enters each unit.

b. Attic/crawl space - This configuration is generally encountered in garden apartment settings, with clusters of commonly-managed buildings typically in the two to five story range. There is typically a single junction box per building, which might be at either an exterior or interior location. From the junction box, the home runs are fed through and attic or crawl space, and then down (or up) through the hollow space between the walls, to outlets in individual units. While the 12 inch demarcation point behind the sheet rock in such installations is readily accessible, it is also common in such installations for the incumbent to allow a fitting to be installed on the home runs at or near the point they become accessible in a attic or crawl space. Thus, each MVPD can run its own home runs to that point, which can then be coupled to the remainder of the wiring run should the resident elect to change service providers.

c. Hallway moldings - In this configuration, often found in post-wired high-rise buildings, the riser cable feeds a junction box, typically on each floor. The home runs then are fed through hallway moldings, where the wiring enters each unit,

typically above the doorway. The hallway moldings are often plastic and designed to snap open for easy access. The point of demarcation is readily accessible in all such configurations.

d. Internal - The internal approach is typically employed in newer buildings which have been pre-wired for cable. The home runs are installed in the hollow spaces between the walls, after the walls have been framed in, but before the walls have been "closed" through the addition of sheet rock. The home runs are sometimes, but not always, run through metal conduit inside the walls. The accessibility of the home run wiring in such circumstances depends on whether the walls are constructed of concrete or cinder blocks as opposed to sheet rock.

4. In situations where an MVPD's home run wiring is run along the exterior of the MDU building to individual residences (a common architecture in post-wired garden apartment complexes), and even when the wiring is encased in conduit, the demarcation point at or about 12" where the wiring enters the subscriber's unit is almost always fully accessible.

5. In many low-rise apartment complexes where an MVPD's home run wiring is run through attics, cellars and crawl spaces between floors and then down or up through interior walls to individual residences, while the presumptive demarcation point may not be accessible, typically the wiring is fully accessible nearby at the point the wiring from the unit enters the attic, cellar or crawlspace.

6. In single riser and hallway home run architectures, as is found in many high-rise apartment buildings, cooperatives, and condominium complexes, it is not difficult to access the demarcation point of each unit through a 2" x 4" hole cut into the hallway sheet rock wall. After the cut in the sheet rock is made, the home wiring is accessed, the interconnection with the new MVPD's wiring is made, the old MVPD's wiring is tapped off, and the hole is repaired either by patching and painting over the hole or with an attractive wall plate that matches the interior decoration of the building. This procedure is not difficult for an experienced MVPD service technician to preform, is relatively inexpensive ($25.00) and should have no adverse impact on the structural elements or the structural integrity of the building.

Al Costanzi

Dated: October 22, 1998

declaration

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

In the Matter of	)	
	)	
RCN-BeCoCom, L.L.C.	)	CSR-5311
	)	
	)	
Inside Wiring	)	
Request for Letter Ruling	)	
Petition for Special Relief	)	

AFFIDAVIT OF JOHN DONAHUE

1. My name is John Donahue and I am Vice President of Engineering for Comcast Cable Communications, Inc.

2. I have read the "Inside Wiring — Request for Letter Ruling" submitted by RCN-BeCoCom, L.L.C. ("RCN") and the foregoing Comments of Comcast Cable Communications, Inc. ("Comments").

3. As stated in the Comments, RCN's representation that accessing wiring set behind sheet rock would entail significant modification and damage to a building's structural elements is inaccurate.

4. Sheet rock is a relatively soft and porous material which is widely used in modern interior construction. Cutting, drilling, opening, plugging, spackling, taping, sanding, painting, and repairing sheet rock are insignificant and commonplace procedures which cable television personnel perform during the installation of cable television inside and home run wiring in both single family and multi-family dwellings and do not result in

significant modification of or damage to a building's structural elements. Restoration of sheet rock subsequent to such installations is accomplished easily and inexpensively, and is standard operating procedure in the cable television industry.

5. I declare under the penalty of perjury that the facts stated herein and within the Comments are true and correct to the best of my knowledge, information, and belief.

John Donahue
Vice President of Engineering
Comcast Cable Communications, Inc.

Dated: October 22, 1998

DC03/192082

In re: RCN-BeCoCom, L.L.C.	)	
Inside Wiring - Request for Declaratory Ruling	)	CSR-5311

DECLARATION OF CHRISTOPHER P. PATTERSON

I, Christopher P. Patterson, hereby declare under penalty of perjury as follows:

1. I am the Vice President of Engineering for Suburban Cable.

2. Suburban Cable routinely performs service drop pre-wiring at the time of new building construction. This allows our crews to install cable wiring inside the wall cavities while the building is under construction and before the sheet rock or drywall is installed. If this wiring requires subsequent repair or replacement after the wall covering is installed, our installation and service personnel are trained to repair or replace such wiring through means of wall fishing.

3. Suburban Cable also installs cable wiring in many older buildings, which were constructed before cable service was available. In such buildings where the sheet rock or drywall is preexisting, the procedures for wiring involve wall fishing, external wire molding, common closet, or other forms of access. Suburban Cable has used wall fishing in countless installations where the customer or landlord will not allow it to use other methods to install wiring within the building.

4. Suburban Cable does not consider wiring located behind a sheet rock wall or drywall to be inaccessible. It is not unusual for its installers to have to cut into sheet rock in order to access subscriber home wiring. Once the cut is made and the subscriber's wiring accessed, the sheet rock cut is easily repaired using common sheet rock patching techniques or wall plates. Such repairs do not disrupt any of the structural elements of the building, nor do they adversely impact the esthetics of the building's interior.

Christopher P. Patterson

Dated: October 22, 1998

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10435 Ironwood Road
Palm Beach Gardens, FL 33410
Adelphia Phone (561) 627-3600
Fax (561) 627-1266

Declaration of Jack Rockwell

I Jack Rockwell, declare as follows:

1. I have been employed by Adelphia Communications for nine (9) years, in the capacity of System Engineer.

2. Adelphia Communications routinely performs drop pre-wiring at the time of new building construction. This allows our service personnel to install coaxial cable to the interior of newly constructed walls while the building is under construction and before the drywall has been put in place. In the event the coaxial cable requires subsequent repair or replacement, our service personnel are trained to repair or replace the cable through means of wall fishing and or post wiring.

3. Adelphia Communications also installs coaxial cable wiring in many other applications, pre-existing buildings, condominiums and single family homes where coaxial cable wiring does not currently exist. The procedures for wiring involve wall fishing, post wiring, external wire molding, attic runs where the cable can be brought to the desired location by means of a closet within the structure.

4. It is not unusual for our service personnel to have to properly cut into drywall or drill a 3/8" hole in order to access existing or install new wiring. Once the cut has been made and the subscribers wiring accessed or installed. The drywall is easily repaired using common drywall patching compound and techniques and or wall plates. Such repairs do not disrupt the structural integrity of the building, and does not effect the esthetics of the building.

Dated: October 22, 1998

Jack Rockwell

Equal Opportunity Employer