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July 5, 2007

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

RE: MB Docket No. 07-51, FCC 07-32

Dear Madame Secretary:

We are a private cable operator (PCO) operating principally in the largest Multi Dwelling Unit (MDU) market in the country, New York City. We are writing to express our opposition to a ban on exclusive MDU contracts for video services.

FCC intervention in the market for MDU service is unwise and actually detrimental to competition. Small companies, lacking the access to capital, cross subsidies and economies of scale of the enormous cable companies like Time Warner, need to capture the steady revenue streams and cash flow that exclusive contracts can provide and that lenders require. Locally based PCOs with exclusive MDU agreements are more responsive and attentive to those buildings' needs and can provide more building and community specific services than the large national companies, with their huge franchise-wide footprints.

The telephone companies urging this ban argue that it is the large franchised cable companies that need to be prevented from tying up apartment buildings and complexes in exclusive agreements (See ex parte comments of Verizon dated July 6, 2006 in MB Docket No. 05-311, quoted in Broadband Properties magazine, November 2006, pg. 89). But their collateral targets would be the elimination of the smaller, more nimble competitors that would be cut off without the possibility of exclusive service to a property.

The contention of the telcos that it is the exclusive agreements between property owners and large operators that is their target is a chimera. The telcos would have mandatory access rights in New York State to any building if they would follow the rules and apply properly for a franchise. The New York State Public Service Commission in Petition of Nob Hill Apartments (Case 90477, Declaratory Ruling Issued and Effective January 14, 1997) determined that exclusive contracts between a franchised cable operator, such as Time Warner, and the owner of an MDU would not be enforced because franchised operators in New York have the benefits of New York's mandatory access law, Section 228 of the Public Service Law.

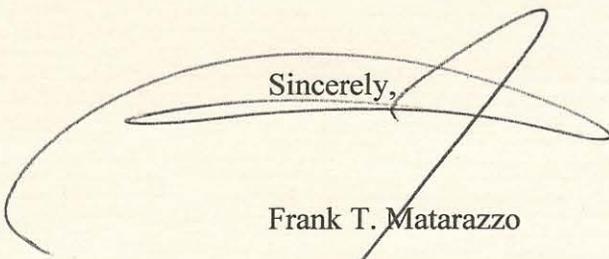
The large telephone companies seem to want to have it both ways. They want the benefit of the access laws that benefit franchised cable companies by doing away with exclusivity but they do not want to have to obtain local franchises.

A better rule would be to allow only non-franchised, small cable operators to accrue the benefits of exclusive contracts. The FCC should also override mandatory access laws where competition would be better served without them and large, franchised cable companies should be prohibited from entering into exclusive agreements.

Also, the FCC should provide more protection on predatory pricing where small PCOs are going head to head at certain properties with large cable operators. Real penalties and enforcement against anti-competitive behavior of the large, franchised cable companies would be worthwhile. Finally, the FCC should (i) improve and clarify the MDU inside wiring rules, particularly in mandatory access states and (ii) end "perpetual" access agreements that are tied to the franchise rights of the incumbent.

Thank you for your attention to these comments.

Sincerely,



Frank T. Matarazzo

Chief Executive Officer

cc: Bill Burhop, IMCC

Monica Desai, FCC Media Bureau