



APARTMENT INDUSTRY COUNCIL

980 Ninth Street, Suite 200, Sacramento, CA 95814

February 5, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: Further Notice of Proposed Rulemaking In the Matter of Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments, MB Docket No. 07-51

Dear Ms. Dortch:

On behalf of the California Apartment Association's Apartment Industry Council, which is comprised of the 20 largest multifamily real estate businesses in the State of California, I am writing to express our organization's serious concern regarding the FCC's proposed rulemaking on whether or not to prohibit exclusive marketing and bulk billing arrangements between video providers and multiple dwelling units building owners.

Collectively, our membership owns in excess of 300,000 dwelling units in the State of California.

Nearly all of our member companies have properties either covered by some form of exclusive marketing agreement and/or or bulk billing arrangement for video services.

We are strongly opposed to any prohibition of exclusive marketing clauses and bulk billing arrangements due to the fact that such an action would not only have adverse effects on our member companies, but more importantly such a prohibition would have major negative financial consequences for the hardworking families who rent our dwelling units.

The fact of the matter is that our member companies enter into exclusive marketing agreements in order to help cover and/or recoup the significant costs necessary for communications infrastructure outlays when constructing new buildings and/or when upgrading the wiring in existing buildings.

Video providers and voice providers, agree to pay some of and/or all the costs of the communications infrastructure in exchange for exclusive marketing rights. Without the ability to enter into such agreements, our member companies would now have to bear the full cost of such wiring and subsequently, they would have no choice but to pass on those massive outlay costs onto tenants in the form of substantially higher rents.

As it relates specifically to the issue of upgrading the wiring in existing buildings, we generally require wiring upgrades to be at the cost of the service provider. This is because our members companies are not in the business of designing and installing wiring infrastructure. Providers are usually only willing to undertake these upgrades in return for exclusive marketing agreements. Many of our members have very limited capital budgets and many competing capital expenditure priorities, so if we can no longer enter into exclusive marketing agreements in exchange for wiring upgrades, there is a great risk that communications infrastructure upgrades will be severely delayed, or not undertaken at all.

Our organization is equally opposed to any prohibition of bulk billing arrangements.

It is the experience of our member companies who have entered into such agreements, that their residents consider bulk video service to be a highly desirable amenity. The fact of the matter is that residents like the convenience of having a move-in ready unit, where they do not have to make arrangements for video service installation or have to pay for video service separately from their rent.

Moreover, since these agreements are negotiated in bulk, our member companies are able to secure service at a significantly discounted rate – resulting in major cost savings for residents.

Banning bulk billing arrangements not only would make it inherently more inconvenient for tenants, but also would do away with major cost-saving benefits.

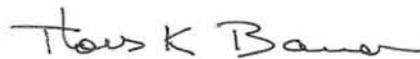
In addition to our concerns about the major financial impacts to tenants, our association is strongly opposed to any prohibition of exclusive marketing clauses and bulk billing arrangements because we believe that such a prohibition would adversely affect the conduct of our businesses without justification. We question whether the Commission has the authority to regulate the activities of property owners in this way and strongly believe that it is imperative that we retain the authority to enter into exclusive marketing agreements and bulk billing arrangements with all types of video and voice service providers.

It is for all the reasons outlined above, that the California Apartment Association's Apartment Industry Council would strongly urge that the Federal Communications Commission not ban exclusive marketing arrangements and bulk billing arrangements. To do so would reduce our industry's efforts to provide state-of-the art communications infrastructure and low service rates to our hardworking residents. Thank you in advance for your consideration of our concerns.

Sincerely,



Kevin Baldrige, Chairman
Apartment Industry Council



Thomas K. Bannon, CEO
California Apartment Association