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

In the Matter of

Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming	))))	CS Docket No. 01-129

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REPLY COMMENTS OF CABLEVISION SYSTEMS CORPORATION

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REPLY COMMENTS OF CABLEVISION SYSTEMS CORPORATION

Cablevision Systems Corporation ("Cablevision") submits these comments in response to the initial comments filed in the Notice of Inquiry in this proceeding. Cablevision is the seventh largest operator of cable television systems in the United States, and has over 3 million subscribers in systems clustered in the New York/New Jersey/Connecticut DMA. Cablevision is also one of the most active creators of diverse national, regional and local programming services, including local and regional news and information channels carried on its own and other cable systems (as well as on satellite services), through its programming arm, Rainbow Media Holdings, Inc. ("Rainbow").

Introduction and Summary

As detailed in the comments of the National Cable & Telecommunications Association ("NCTA") and other parties, the efforts of Congress and the Federal Communications Commission ("FCC" or "Commission") to facilitate competition have been highly successful, as evidenced by the fact that non-cable video providers now serve over 20% of the multichannel video programming distributor ("MVPD") market in the United States.[1/]

1/ Comments of the National Cable & Telecommunications Association ("NCTA") at 3.

In their comments, RCN and others have focused on the need for continued program access rules as imperative to competitive growth. Given those comments, Cablevision must respond to those claims. As companies compete to distinguish their services, it is clear that the program access rules, which were meant to assist competitors in their infancy, are no longer necessary, and in fact, will create a disincentive for investment.

NCTA has provided the FCC, in its initial comments, with a comprehensive look at the vigorous competition in the video marketplace, including densely populated urban markets. These markets, as NCTA notes, are where terrestrial overbuilders have determined to target their resources.[2/] Cablevision has experienced this terrestrial competition first-hand: RCN is engaged in extensive overbuilding in the New York metropolitan area that Cablevision serves.

In addition, SMATV providers, DirecTV and Echostar are fierce competitors in urban markets, such as the New York metropolitan area, as well as suburban markets. The robust competition among video programming distributors has benefited consumers. Contrary to the claims of RCN, the Wireless Communications Association and others, extending the program access requirements is no longer justified in order to ensure the continued availability of "programming of greatest importance to subscribers."[3/]

I. Existing Competition Ensures That Consumers Will Receive Innovative and Varied Content.

A. Significant Competition Exists Among Providers of Video Programming in the New York Metropolitan Area.

Cablevision faces significant and increasing competition from both satellite and SMATV providers, and terrestrially from RCN. In the New York metropolitan area, DBS providers have added many thousands of new subscribers each month -- nearly 14,000 in July 2001 alone. In the

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2/ NCTA Comments at 20-25.

3/ Comments of the Wireless Communications Association International, Inc. ("WCA") at 5.

last two years, DBS has doubled its market share in the portions of the New York metropolitan area served by Cablevision.[4/] The strong competition cable faces from DBS is evidenced by the fact that in the last month, stories featuring cable -- and Cablevision's --competition from DBS have appeared in Newsday and the New York Times.[5/]

The growth in DBS subscribers is due in part to the aggressive efforts of DirecTV and DISH network to target Cablevision subscribers in their marketing efforts. For example, DISH network's recent ad campaign featured print ads entitled "Save Money vs. Cablevision," and direct mail, door hangers, and radio live-reads advising consumers that "Cablevision is raising your rates again." DirecTV's "Cable Bites" print ads feature side-by-side comparisons of tier pricing and number of channels. And subscribers appear to be responding. DBS penetration in Cablevision's service areas continues to increase.

Cablevision also faces significant competition from various providers of SMATV service. Like many metropolitan areas, the New York market has a high proportion of residents living in multiple dwelling units (MDUs). Because SMATV providers traditionally share revenues with building owners, the owners of the MDUs often enter into agreements with SMATV providers to offer their residents SMATV service at below-market rates, or offer "free" SMATV service as part of the individual unit rent. Owners of buildings under construction enter into agreements with SMATV providers, and allow those providers to construct facilities simultaneously with the construction of the building, allowing those providers to sign up customers long before Cablevision is able to offer service. Terrestrially, RCN also provides service throughout much of

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4/ Berkowitz, Harry, "Tug of War," Newsday (Aug. 20, 2001).

5/ See n.4, supra; Balk, Alfred, "More is More (Mostly): From Cable to Satellite TV," New York Times (Aug. 9, 2001).

the New York metropolitan area, and boasts of its "substantial growth" in the New York market.[6/]

B. Cablevision is Developing Creative Content and Exciting New Services for its Customers.

Faced with well-financed and vigorous terrestrial and satellite competitors, Cablevision has responded by investing substantial sums in network upgrades, digital cable, and innovative new services. The beneficiaries are consumers throughout the New York metropolitan area, who enjoy state-of-the-art offerings from Cablevision.

1. Digital Cable

Cablevision is in the midst of a five-year plan to upgrade its network infrastructure throughout its region to a fully two-way 750 minimum MHz platform. As Cablevision has rebuilt its network, it has aggressively rolled out its high-speed data offering, and will launch digital television with the deployment of an advanced digital set top box and interactive services this October. Designed and engineered in cooperation with Sony Corporation, this digital set top box will offer customers a new television experience. This box is currently in technical trials in hundreds of homes of Cablevision customers.

Cablevision expects that the bandwidth for downstream transmission on its 750 MHz platform not allocated to analog television will be allocated among several digital offerings -- original high definition (HDTV) programming, video-on-demand, interactive television, digital sports, digital music, and standard definition digital television, plus e-mail services. Following the initial rollout, Cablevision plans to roll out residential telephony service offerings using Internet Protocol.

6/ See Initial Comments of RCN Corporation at 6 and Appendix B.

2. Regional and Local News

Cablevision has long been a leader in developing innovative content services that target regional and local interests. Cablevision, for example, created the nation's first 24 hour per day regional cable news service, News 12 Long Island, and has replicated this service in four other New York City metropolitan areas, including the Bronx. These networks provide news intended specifically for residents of the areas they reach, including live coverage of breaking news events in the community.

Competition has spurred additional program innovations. Cablevision also launched its Metro Channels in 1998, which have been hailed as a unique example of cable's commitment to "hyperlocalism."[7/] Today Metro Traffic and Weather is the tri-state area's only 24-hour traffic, transit and weather channel, with an extensive network of live traffic cameras, providing the best route home.

3. Interactive Content and High Definition Television

As part of its effort to provide unique services, Cablevision is actively pursuing content opportunities with both affiliated and unaffiliated providers to develop interactive content designed for the unique viewing experience of the television set. Using its expertise in developing and marketing new programming services, Cablevision is devoting significant resources to the development of interactive television. As an example, Cablevision is expanding its popular Power To Learn service for schools and libraries, which already provides unique content for the Internet, and is developing a version designed for the digital set top box.

Cablevision, without any government support, also is investing to become a leader in HDTV programming. Live concerts and events from Radio City Music Hall and Madison

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[7/] See "Dolan's 'Hyperlocalism," Multichannel News, October 5, 1998 at 52.

Square Garden are televised in HDTV. Additionally, Fox Sports NY and the Madison Square Garden Network televise the home games of the New York and New Jersey teams in HDTV.

The breadth of Cablevision's pro-consumer responses to the video marketplace demonstrates the strength of the competition it faces from competing distributors. Consumers in the New York/New Jersey/Connecticut DMA have a choice of multichannel video providers. Cablevision must innovate to attract new subscribers and keep existing ones.

II. Continuation or Expansion of the Program Access Rules is Unwarranted.

Several competitors claim that continuation, or even expansion, of the program access rules is still warranted.[8/] However, Echostar and DirecTV are now major competitors in the MVPD marketplace, and artificial support to help fledgling competitors become established is no longer necessary. Given the robust level of competition, the program access rules should be allowed to sunset.

RCN and others, however, assert that expansion of the program access rules is warranted, arguing by way of example that "Cablevision [has] revised its sports programming distribution system from satellite to terrestrial so as to preclude RCN's carriage of an important tier of extremely popular local sports programming."[9/] RCN's assertion is baseless, and does not reflect the reality of the competitive market, nor the previous findings of the Commission.

The Commission recently upheld the Cable Services Bureau's denial of a program access complaint initiated by RCN on this precise issue. In its affirmation of the Bureau's decision rejecting RCN's complaint, the Commission noted that the Metro "service was terrestrially-

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8/ See, e.g., RCN Comments at 10-13; WCA Comments at 4-5.

9/ RCN Comments at 9-10. See also references to Cablevision's terrestrial carriage of its Metro Channel in WCA Comments at 4-5; Comments of Carolina Broadband, Inc. at 12; Comments of Echostar at 10-11.

delivered, rather than satellite-delivered, and so outside of the direct coverage of Section 628(c)," and further held that there was no other basis for finding a violation of Section 628. [10/]

RCN's suggestion that the failure to apply the program access rules to Metro and other terrestrial programming services somehow impairs its ability to offer sports programming to its subscribers is without merit. Hundreds of local professional and college games continue to be shown on Fox Sports Net - New York and Madison Square Garden, both of which are made available to and carried by RCN.[11/] In addition, hundreds of additional professional and college games are available on national cable channels, national broadcast television networks, and local over-the-air broadcast stations carried by RCN. The games carried on Metro are only a fraction of the total professional and college sports programming available to viewers in the New York area. The Commission itself has specifically found that "a majority of sports programming remains available to RCN."[12/] Thus, there is no basis for RCN's assertion that the program access rules are necessary to ensure that subscribers are able to access a wide variety of programming, including local sports programming, from competing multichannel video providers.

[10/] RCN Telecom Services of New York, Inc. v. Cablevision Systems Corp., FCC 01-127, ¶¶ 15-21 (May 30, 2001).

[11/] These two regional sports networks, in which Cablevision has a financial interest, are also available on DBS. See DirecTV Comments at 13-14.

[12/] RCN ¶ 21.

Conclusion

Companies like Cablevision are competing by offering customers innovative services, including original programming, interactive services, and IP telephony. Given the level of competition in the market, investments in such innovative services will be discouraged by continuation of the program access rules.

Respectfully submitted,

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September 5, 2001

CERTIFICATE OF SERVICE

I, Margo Adams, hereby certify that on this 5th day of September 2001, I caused copies of the foregoing "Reply Comments of Cablevision Systems Corporation" to be sent to the following by hand delivery:

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