ADVERTISING AND MARKETING PRACTICES IN THE SATELLITE DISH INDUSTRY

HEARING

BEFORE THE

SUBCOMMITTEE ON
COMMERCE, TRANSPORTATION, AND TOURISM

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

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ADVERTISING AND MARKETING PRACTICES IN THE SATELLITE DISH INDUSTRY

SATURDAY, FEBRUARY 15, 1986

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON COMMERCE,
TRANSPORTATION, AND TOURISM,
Santa Fe, NM

The subcommittee met, pursuant to notice, at 9 15 a m , in the New Mexican Room of the La Fonda Hotel, 100 San Francisco Street, Santa Fe, NM, Hon James J Florio (chairman) presiding

Mr FLORIO Good Morning The subcommittee will kindly come to order I'd like to welcome all in attendance to this duly authorized hearing of the Subcommittee on Commerce, Transportation, and Tourism of the Energy and Commerce Committee of the House of Representatives of the United States of America This is a committee hearing that is required to and will be conducted in accordance with rules of the House of Representatives Accordingly, let me at the outset apologize for the delay in commencing the hearing Our court reporter had some automobile troubles getting here, and part of the rules of the House is that the hearing must be conducted with a court reporter present and recording the proceedings

I want to welcome all in attendance and particularly express my appreciation to Mr Richardson for inviting us here to deal with a very serious problem that is within the committee's jurisdiction Mr Richardson is a very active member of our subcommittee in all areas of the diversified jurisdiction of our subcommittee We deal with transportation We deal with environmental matters We deal with trade matters, matters of commerce, in general And of course we deal with the subject that we're dealing with today, matters of interest to consumers

Mr Richardson has taken a particular interest in the whole area of consumer protection Therefore, this hearing on advertising and marketing practices in the satellite dish industry is within the jurisdiction of this committee, and it is one that he has asked us to focus on and we will do so

The satellite dish industry is a high-growth industry Since 1979, when satellite dish antennas first became available, more than 1 million Americans have bought these systems, believing that they would have unrestricted access to satellite-transmitted cable and commercial network programming Recent decisions by cable-owners and commercial networks to scramble their signals mean

that the access dishowners have to certain signals may be restricted in a variety of burdensome and potentially expensive ways

This subcommittee, therefore, wishes to examine the need to provide consumers with better information about limitations that may apply to satellite dish reception In addition, we look forward to hearing the views of the witnesses about how to ensure the availability of satellite transmissions at fair and reasonable costs to dishowners

We have a long list of witnesses, and we are required to be finished by noontime So all the witnesses who have written statements will be entitled to place their written statements in their entirety into the official court record today We would ask our witnesses, therefore, who will be brought before us in panels, to summarize their statements, intending to keep their summary statements to approximately 5 minutes, so we can have the balance of the time for the interaction, which is the most valuable part of these congressional hearings between the Members and the witnesses

I would at this point now recognize and thank again my colleague from New Mexico, a very aggressive Congressman in seeking the public interest, someone who has been a tremendous help to me as we've tried to address very important issues in the Congress in our subcommittee I'm pleased to recognize Congressman Richardson

Mr RICHARDSON Thank you, Mr Chairman I would like——

Mr FLORIO The rules of the subcommittee do not allow applause, but we will waive that rule one time, and we have just done that

Mr RICHARDSON Thank you, Mr Chairman I would like to extend my sincere thanks to you for holding this hearing The issues surrounding the satellite dish and cable programming industries are very important in my district, and therefore your interest is most appreciated I would also like to extend my thanks to those of you that have come to give your expert testimony and to everyone in the audience who is concerned about these issues

Over the past 5 years, a market has grown in distributing home Earth stations or dishes capable of intercepting the transmission of cable networks The number of home Earth stations has grown from 4,000 in 1980 to almost 2 million today There are also 40 million cable subscribers throughout the country While the growth in these industries has brought about some problems with competition, marketing and distribution of cable programming for dish users, I believe we're all reasonable people and that ultimately equitable solutions to these problems will be found

Satellite dishes are important to my district They have afforded many of my constituents the ability to watch TV who have never been able to do so Dishes now provide many rural Americans with essential services which had previously been available only in urban areas

I've always been a strong supporter of the cable and satellite dish industries I'm a cosponsor of H R 1769 and H R 1840, both of which would give the dish and cable industries the time they need to establish orderly and equitable marketing systems for the pri-

vate satellite dish user I'm also an original cosponsor of the Cable Communications Policy Act

Briefly, Mr Chairman, H R 1769 and H R 1840, which are two bills that have generated tremendous interest throughout the country, will do the following

H R 1769, the Satellite Television Viewing Amendment, would establish a 2-year moratorium on scrambling of signals Its stated purpose is to allow time for the establishment of a marketing system to permit private viewing of the signals by home satellite users It's not intended to stop scrambling forever

H R 1840, the Satellite Television Viewing Rights Act, proposes the establishment of permanent Federal regulation of the conditions under which scrambled programming would be made available to owners of dishes Private viewing would be permitted upon compliance with the prices, terms, and conditions established in the marketplace or, if necessary, those established by the FCC to ensure the availability of such programming at reasonable rates and conditions

In addition, it would prohibit the purchase or lease of decoders from specific sources This bill is designed to take care of some of the problems many of my constituents are complaining about First, the cost of HBO cable programming subscriptions should not be higher to the dish user than to the cable customer Two, that these services should be available to the dish user The bill would also prevent cable companies from monopolizing the sale of decoders And such a monopoly is of grave concern to many of my constituents, and viewers fear cable companies simply would not sell decoders

Mr Chairman, section 5 of the Cable Communications Policy Act of 1984 clarified the rights which backyard dishowners have to established cable programming Under the terms of the act, a backyard dishowner may receive satellite cable programming for private viewing, provided the programming is not scrambled or that a marketing system has not been established to authorize private viewing by TVRO owners

At the same time, Congress made it clear that violation of Federal law would continue to occur where there is interception of those signals for commercial purposes, interception of noncable programming, such as network feeds to affiliates, or failure to pay for satellite cable programming where a means exists to do so

Unfortunately, considerable consumer confusion exists as to what the statute does and does not allow This confusion has been heightened with the recent scrambling of HBO's and and Cinemax's signals I would like to quote from two letters I received from constituents

When we were considering buying our satellite dish, I asked the salesman outright if these companies would scramble their stations His answer was no, because it would be too expensive for the companies to do so I feel these companies should in some way compensate their dishowners My family is not wealthy, and this was a major expense Now for us to have to buy a decoder and then pay monthly for these stations is not fair

I hope you do introduce a bill to require that dealers provide consumers with information about TV signal scrambling I was told, "No way," by a number of dealers And now, about a month after getting one, scrambling is starting in a big way

For reasons such as these, I am considering introducing legislation which would require disclosure at the point of retail sale of the rights and limitations of satellite Earth stations, as established by Federal law My legislation would also require retail sellers of Earth stations to include a similar disclosure in any contract or other document of sale for backyard dishes

While I support a moratorium on scrambling, chances of its passage, regretably, do not look good Scrambling is already occurring, and the industry anticipates a number of additional stations that will scramble in the near future Satellite dishowners might have to make additional purchases of decoders and cable subscriptions in order to receive those signals that have been scrambled

I wish to stress that I am in no way trying to penalize or implicate the satellite dish dealers, 99 percent of them are already disclosing this information to the consumer I am willing to work with everybody in this room, especially the dealers, to arrive at a way that the consumer can be protected My main objective is to protect the consumer so that the consumer has the knowledge of rights, of all implications, whenever he purchases a dish

So I look forward to working with many of you here as we develop this legislation, which has not been introduced, which is subject to change and amendment And I look forward to hearing from many of my constituents today

Once again, Mr Chairman, I thank you for coming to New Mexico

Mr FLORIO Thank you very much We will now hear from our first panel of witnesses Mr Lincoln Landis, of Satellite Systems, Patrick Greer, of Walker Electronics, and Mr Donald Buttry, of Buttry Enterprises Gentlemen, we would appreciate your coming forward and taking your positions at the witness table

Gentlemen, we welcome you to our hearing As I'd indicated to you and all the witnesses, statements that you may have will be put into the record in their entirety, and we would ask that you summarize your statements We ask Mr Landis to please proceed

STATEMENTS OF LINCOLN A LANDIS, STARLINK SATELLITE SYSTEMS; PATRICK T GREER, FARMINGTON WALKER ELECTRONICS CO., AND DONALD E BUTTRY, BUTTRY ENTERPRISES

Mr LANDIS Thank you very much, Mr Chairman and Congressman Richardson In the interest of the public, we thank you for this opportunity to present to the committee our views on the complex issues surrounding the fair marketing of satellite television systems The extremely rapid growth of this new and dynamic industry has created a number of questions about the potential use and application of this technology that concern us all

It is imperative at this critical stage of our industry's development that everyone be made aware of the broad range of benefits that people throughout the country and the world stand to gain

Your presence here today demonstrates your concern for fairness and honesty in the education of the consumer We, too, believe that a better understanding of these issues will benefit everyone It is our view that accessibility of programming by the public is of major concern Much confusion has surrounded the details of such

access The public has been subjected to much misleading and erroneous information since the Cable Communications Policy Act of 1984 Until recently, no one, not programmer, not cable distributor, not satellite retailer, had a complete understanding of the direction the industry would go in providing the public access certain to programming

Recent implementation of equipment assures remuneration to the programmer and public accessibility to services that depend on subscriber support There has been absolutely no change in the amount of programming available to the satellite dishowner

The committee has expressed its concern with certain advertising practices used in the sale of satellite dishes Some satellite dish retailers as well as members of our sister industry, the cable companies, have indulged in providing incomplete or inaccurate information to the public

Our recently formed New Mexico Satellite Industry Association has set as its primary goals public awareness and education, the setting of industry standards, as well as self-regulation Groups with similar intentions and goals have been formed in numerous States throughout the country Our national trade organization, SPACE, has actively been promoting high industry standards as well as encouraging an honest and positive approach toward advertising and consumer awareness, in general It is obvious that the public has benefited from this approach There is no doubt that the overwhelming majority of people in our industry share this philosophy

Public education has been greatly hindered by a large amount of misinformation promulgated by the cable concerns This is not the result of the amateurish efforts of a small businessman, but rather the calculated and well-orchestrated media blitz tactics of Madison Avenue sophisticates This kind of approach has the obvious intent of undermining the satellite dish industry as well as to maintain the control cable companies currently enjoy This powerful group will determine who gets access to what and at what price We do not believe that this serves the public interest

We have recently witnessed a rapid growth in the number of programming services available to the public This wide range of programming goes far beyond the distribution capabilities of most cable systems There are few cable systems in this country that provide their customers with even 50 channels, and these systems require a very dense population base to be financially feasible

In rural areas and even in less dense urban areas such as Santa Fe, a satellite system is an economically more viable alternative to someone who wants more variety in programming than what is available on the local system To many Americans, there is no alternative

Another benefit of home satellite systems is a much higher quality of audio and video product due to the unavoidable amount of signal loss inherent in any cable distribution system A satellite dishowner also has access to educational programs by accredited universities as well as up-to-the-minute agricultural and business information and many high-fidelity stereo services and FM radio stations from around the country Your cable company technically could provide these services, but the costs would be prohibitive

We believe that the competition we provide the cable companies is incentive to improve their product No such incentive is present in the franchise system The cable operator commonly adopts a take-it-or-leave-it attitude with a consumer's complaint He is indeed the only game in town, but this changes when the customer has an alternative

A fair price for access to programming would normally be determined quickly through the American free market system if there were a clearcut producer-distributor-consumer relationship, but the confusing cross-ownerships and vertical integration evident in the cable industry are not conducive to the competitive mechanism necessary for the free market system to work

We are extremely interested in the outcome of the current Justice Department investigation of the cable industry This investigation is a result of concern expressed about anticompetitive measures the cable faction has brought to bear on other parts of this industry

We are pleased to see House bills 1840 and 1769 gaining wide support in Congress These bills deal with, respectively, the fair marketing of satellite program services and a proposed 2-year moratorium on further scrambling until a fair and equitable marketing system can be worked out

In closing, I would like to reiterate our feeling that positive action by our trade organization toward consumer education and self-monitoring will preclude the necessity to legislate the disclosure bill which has been proposed Thank you, Mr Chairman and Congressman Richardson

Mr FLORIO Thank you

[Testimony resumes on p 30]

[Attachments to Mr Landis' prepared statement follow]

Video Services

Available on cable in Santa Fe underlined

(ST means full- or part-time stereo sound)

primary coverage

ABC Network 1[7]; 10[F1]
ABC network programming

ABC Network (west) 10[T2]
ABC network programming

Alaska Satellite Tv Project 24[F5]
Mix of local network programming

American Christian TV (ACTS) 15[S1]
Southern Baptist Convention

American Extasy Channel 18[T3]
Adult movies co-supported

American Movie Classics 10[F4]
Classic American-made movies

Armed Forces Satellite Network 22[F2]
Mix of network, independent programming for military

Arts & Entertainment 24[F2]
Dramas, musicals, programming from around the world (ST)

BCTV Vancouver 22[AD]
Programming from various independent (exc. — Oak-Orion)

Bizznet (American Business Net) .06[F4]
U.S. Chamber of Commerce news, information, advertising

Black Entertainment TV .20[F2]
Black-oriented movies, entertainment (ST)

Boresight Techline 07[S1]
E-mail subscriber hookup 9 p.m. (E)
TVRO video toy show Thurs 9 p.m. (E)

Bravo 07[F4]
Cultural specials, dramas (ST)

Cable News Network 07[C1]
Round-the-clock news

Cable-SPAN 13[C1]
Live, taped coverage of U.S. House committees

Catholic Television Network 20[W4]
Catholic religious programs (exc. — Oak-Orion decoder)

CBC (Atlantic) 19[AD]
Canadian Broadcasting Company feed to Atlantic Time

CBC North 11[AD]
Canadian Broadcasting Company feed to Mountain Time

CBMT .20[AD]
Canadian Broadcasting Company feed to Eastern Time

CBN Cable Network .06[F2]; 11[C1]
Family entertainment, classic series, some religious

CBS Network (east) 7; 20[T2]; 02[T1]
CBS network programming (East, no Central)

CBS Network (west) 16[T2]
CBS net work programming (Western)

CHCH Hamilton .05[AD]
Programming from Ontario independent (exc. — Oak-Orion)

Cinemax (east) 19[G3]
Movies, entertainment (East/exc. — VideoCipher)

Cinemax (west) .23[F3]
Movies, entertainment (Pac./exc. — VideoCipher)

CITV Edmonton 18[AD]
Programming from Edmonton independent (exc. — Oak-Orion)

Country Music TV 01[T3]
Country music, shows (ST)

Discovery Channel The .22[C1]
Family entertainment, education, and specials

Disney Channel The (east) 04[C1]
(Eastern Time zone feed) (ST)

Disney Channel The (west) .24[G1]
Family entertainment (Pac. Time Zone feed) (ST)

ESPN 09[C1]
Sports (ST)

Eternal Word TV 12[F3]
Catholic religious programming

Fantasy Network .24[W5]
Adult movies (exc. — decoder available)

Financial News Network 04[F3]
Financial reporting

Galavision 20[G1]
Psychic (Spanish) programming

Globo TV 05[F1]
Sports news from Brazil 3-6 p.m. (E)

primary coverage

Headline News 14[T3]; 08[G1]
Round-the-clock news briefs

Hit Video USA 18[F4]
Around-the-clock video mix

Home Box Office (east) 23[G1]
Movies, entertainment, some sports (East./exc. VideoCipher)

Home Box Office (west) 13[F3]
Movies, entertainment, some sports (Pac./exc. VideoCipher)

Home Shopping Network .21[F4]; 22[F3]
Shop-by-phone television

Home Sports Ent. (Houston) 11[F4]
Houston-area sports, primarily Astros, Rockets

Home Team Sports .2[F4]
Baltimore Washington sports Orioles, Bullets, Capitals

Hospital Satellite Network 11[S1]
Movies, entertainment, health programming to hospitals (exc.)

House of Commons (English) 24[AD]
Eagle Parliamentary coverage

House of Commons (French) 16[AD]
French-language Parliamentary coverage

Independent Network News .08[W3]; 21[W3]
E-mailing news deliveries

JISO (Japanese) 13[W4]
Japan news feed from U.S. to ABC/CBS newsfeed

KFMB San Diego 24[M1]
CBS affiliate, San Diego programming

KTVT Dallas 22[T3]
Dallas independent station

Learn/Alaska 20[F5]
Educational Alaskan programming

Learning Channel The/Home Theater Net, 16[F3]
Educational (1 a.m.)/family movies, entertainment (ST)

Lifetime 17[F3]
Health, craft, cooking, crime, interview

Madison Square Garden Network .06[F4]
New York-area sports, arts sports

Meadows The (racing) 13[S1]
Saliva racing from Meadows (Eastern Time feed) (ST)

Movie Channel The (east) 10[G1]
Movies, entertainment (Eastern Time feed) (ST)

Movie Channel The (west) 14[G1]
Movies, entertainment (Pacific Time feed) (ST)

MuchMusic .06[AD]
Music videos, a la MTV (ST)

TVSC 15[W5]
Sports, pro and amateur

Music Television (MTV) 11[F3]
Rock, speeches, concert (ST)

NASA Select TV 13[F7] 13[F2]
Coverage of shuttle flights

Nashville Network The 02[G1]
Country-oriented entertainment, interview, sports (ST)

National Christian Network 07[F4]
Religious programming

National Jewish Television 12[F4]
Religious

NBC Network (east) 08[F2]
NBC network prime time programming (East, no Central)

NBC from London .24[F1]
TV net from London, news

New England Sports Channel The .24[F4]
New England (Northeast) sports

New England Sports Net 13[F4]
Boston Sports, Red Sox, Bruins

Nickelodeon .06[F4]; 01[F3]
Educational and entertainment children's programming (24 hrs.) (ST)

Nostalgia Channel .21[F4]
Golden TV: films, news

People That Love (PTL) .02[F3]; 17[G1]
Talk, many music videos, family (ST)

Playboy Channel 12[F4]
Adult channel, entertainment from Playboy

PrimeLife 07[F4]
Seniors programming

primary coverage

Prime Ticket Sports 07[F1]; 20[F4]
Southern California Regional sports coverage

Pro Am Sports Network .08[W5]
Sports from Mich., Ohio, Ind., Detroit Tigers

Public Broadcasting Service (A) 15[W4]
PBS programming/some syndication

Public Broadcasting Service (B) 17[W4]
PBS programming/some syndication

Public Broadcasting Service (C) .21[W4]
PBS programming/some syndication

Public Broadcasting Service (D) .23[W4]
PBS programming/some syndication

Satellite Program Network .06[F3]
Variety / early morning news (ST)

SelecTV .02[T3]
Movies/entertainment

Showtime (east) 05[G1]
Movies, entertainment (East, Time Zone feed)

Showtime (west) 10[F3]
Movies, entertainment (Pac. Time Zone feed)

Silent Network The 16[F4]
Programming for the deaf

SPACE/Showtime 17[S1]
TVRO industry news, Tues 9 p.m. (E)

Spanish International Network
All Spanish-supported Spanish programming

Sports Network The .03[AD]
Similar to ESPN

SportsVision 09[F4]
Chicago-area sports, White Sox, Bulls

Success in Life Network 15[F4]
Christian-oriented programming

TCTV Montreal (French language) 14[AD]
French-language programming (exc. — Oak-Orion)

Trinity Broadcasting Network 03[F3]
Religious programming

Turner Network Sports 02[G3]
occasional transmission of TBS sports

Unity Network .02[W5]
Religious programming Dr. Gene Scott

USA Network (east) .11[G1]
Pro/con sports, some children's programs, family series (ST)

USA Network (west) 09[F3]
Pro/con sports, some children's programs, family series (ST)

Video Hits-1 (VH-1) 15[F3]
Music videoclips — digital stereo

WDIV NBC Detroit 09[AD]
NBC programming from Detroit (exc. — Oak-Orion)

Weather Channel, the .21[F3]
Round-the-clock weather updates

WGN TV Chicago 03[G1]
One of independent stations, Cubs baseball

WJBK CBS Detroit .23[AD]
CBS programming from Detroit (exc. — Oak-Orion)

WLVI Boston .03[S1]
occasional transmissions Celtics, very plans

Wold Satellite Television Network .23[T3]
Programming syndicated to stations

WOR-TV Secaucus, N.J. 15[G1]
Pro New York independent station, Mets baseball

WPIX New York 19[F4]
New York independent station, Yankees baseball

WTBS-TV Atlanta .18[G3]
Atlant independent, Braves, Hawks) (ST)

WTVS-PBS Detroit .21[AD]
PBS programming from Detroit

WXYZ-ABC Detroit 10[AD]
ABC programming from Detroit (exc. Oak-Orion)

XEW Mexico City 12[M1]
Programming in Spanish

XHDF Mexico City .22[M1]
Programming in Spanish

XHTH Mexico City 14[M2]
Programming in Spanish

Audio Services

(ST means full- or part-time stereo sound)

CBBK Radio 16[AD]
Kingston, English music 8.76-8.94 channels (ST)

CBIA Radio .24[AD]
Kingston, English music 8.76-8.94 channels (ST)

CBOF Radio 16[AD]
Ottawa French music 8.4-8.58 channels (ST)

CBOF Radio .24[AD]
Ottawa, French music 8.4-8.58 channels (ST)

CBU Radio 22[AD]
Vancouver English music 8.76-8.94 channels (ST)

CBK Radio 18[AD]
Edmonton, English rock music 6.17 megahertz

Country Coast to Coast 03[G1]
Modern country 8.04-8.13 channels (ST)

FM America 18[T3]
Adult easy listening (w/Andy TVRO talk show) monitored 8.2

In Touch 06[F3]
Magazines, newspapers read in rotation monitored 7.67

Love Sounds 08[F3]
Contemporary Christian music 8.3-8.48 channels (ST)

Moody Broadcasting .03[G1]
Religious 8.4-7.93 channels (ST)

National Broadcast Museum .21[F4]
8.2 monitored

North America One 18[T3]
Easy listening, talk show 8.58-8.76 channels (ST)

Satellite Jazz Network 04[F3]
Jazz from Los Angeles KKGO 8.58-8.76 channels (ST)

Satellite Muzic Network .03[G1]
Easy listening 7.38-7.56 channels (ST)

Satellite Muzic Network 07[F4]
Country 7.56-7.92 channels (ST)

Star Station .03[G1]
Contemporary Rock 8.58-8.76 channels (ST)

Stardust .03[G1]
Easy listening 8.03-8.14 channels (ST)

Starship .06[F3]
Cable Jazz Network 8.94-9.12 channels (ST)

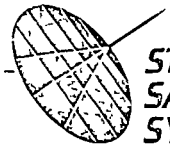
Sheridan Broadcasting Network 18[W5]
7.38-7.56 channels (ST)

Studiolink/Hit Favorites 13[G1]
1.22-1.40 channels (ST)
Beethoven/Easy Listening 1.58-1.76 channels (ST)
Beethoven/Classics 1.94-2.12 channels (ST)
Beethoven/Super Hits, Country 7.38-7.56 channels (ST)

Transtar Radio .09[F1]
Country 8.58-8.76 channels (ST)
Contemporary 7.38-7.56 channels (ST)

WFMT Radio .03[G1]
Starchey Classical from Chicago 8.3-8.48 channels (ST)

WQXR Radio 15[G1]
Classical programming from New York 8.3-8.48 channels (ST)



STARLINK SATELLITE SYSTEMS
1310 Osage (St. Michael's & Cerrillos)
PO Box 5014, Santa Fe, NM 87501 983 7800

These programmers anticipate being on the air in the next 12 months:

Almi TV Productions

Atlantis Entertainment Network

Aloha Network

Animart

Apollo Entertainment Network

Box Seat

The Buenavision Channel

The Channel Black

Channeltainment

Comedy Entertainment Network

Kidvid Network

Magicable

Movietime

Nabu-The Computer Network

Penthouse

Satellite Concert Network

Solarvision

Spanish Universal Network

Studio LIne

TV Store

Video Concert Hall

RECEIVED DEC 10 1985

Congressional Rural Caucus

Members of Congress Working for Rural America

U.S. House of Representatives • 412 Cannon House Office Building • Washington D.C. 20515 • 202/226-3737

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12/6/85-87

SUBJECT HR 1769, HR 1840 and S 1618, SELECTED VERSIONS OF SATELLITE TELEVISION VIEWING RIGHTS ACT AMENDMENTS

To scramble, not scramble, or descramble may prove to be rather controversial words for many residents in small towns and rural areas who are using, plan to use, or in the process of using INDIVIDUAL EARTH STATIONS HOME DISH ANTENNAE or just plain old SATELLITE DISHES

In any event, it is suggested that you promptly take note of HR 1769 HR 1040 and S 1618 selected versions of SATELLITE TELEVISION VIEWING RIGHTS ACT AMENDMENTS to evaluate the need for such proposals to your Districts and your respective constituents.

HR 1769 concentrates on a proposed 2 YEAR MORATORIUM ON SCRAMBLING to insure that fair rates and competitive distribution systems are available for viewing scrambled signals with the use of descrambling equipment which is readily available and affordable to users

HR 1040 and S 1618 will insure that if and when signals are scrambled, access will be provided at fair rates for HOME SATELLITE ANTENNA OWNERS It is reported that CBS-TV and NBC-TV will not provide such access

Once again, the concern is such that local governmental entities are being asked to prohibit such receiving devices in many sections of the country Whether this is good or bad remains a local determination, however, many people are concerned that any action to restrict and/or eliminate freedom of access to such signals without the use of special equipment is an imposition on individual rights

To assist CRC Members in this subject, we have provided a summary statement on page 2 of this report for your preliminary information and consideration

You might wish to contact local residents in your Districts to determine the impact of such actions and/or inactions in your respective States and Districts

Should you wish to join as a cosponsor of any of the proposed bills, please contact the appropriate staff assistant listed in the summary

It is interesting to note that "The dish antenna product incidentally is predominantly American manufactured"

Thank you

As result of "growing concentration" in cable, operators "literally determine what the people in any community see — because they alone control the funnel through which all of television must go," according to MPAA Pres Jack Valenti In speech in Beverly Hills, he said "One of the big issues we're going to have to confront is what I think is the growing concentration and power of the cable industry I think it's stealthy, it's invisible and all of a sudden, it's there " Twenty operators have 70% of all cable subscribers, Valenti said, and top 5 have 40% Survey published Dec 2 in our sister publication, Television Digest, showed that top 5 operators had about 35% of total of 32 7 million subscribers served by top 100 operators

H R. 1769, SATELLITE TELEVISION VIEWING AMENDMENTS

H R. 1840, SATELLITE TELEVISION VIEWING RIGHTS ACT OF 1985

S 1618, SATELLITE TELEVISION VIEWING RIGHTS ACT OF 1985

Congressmen W J "Billy" Tauzin, Judd Gregg, Charlie Rose and Eugene Chappie have joined to introduce two bills to amend the Communications Act of 1934 to assure consumer access at fair prices, terms and conditions to view satellite television programming transmitted to the home and to eliminate the barriers being raised by those who are trying to slow the remarkable growth of this technology The dish antenna product incidentally, is predominantly American manufactured Senator Albert Gore, Jr has introduced a bill to achieve the same objectives The need for the legislation exists because more than fifteen television programming services, including CBS television network and WOR-TV (New York), have announced plans to scramble their programming beginning in mid-December CBS-TV and WOR-TV programming will not be available to home dish antenna owners, on any terms This refusal to provide service severely affects people who live in small towns and rural areas that are beyond the reach of the network affiliate signal and cable service

H R 1769 provides for a two-year moratorium on the scrambling of satellite cable programming to allow for the development of a fair system to market the programming to home viewers in accordance with provisions for fair dealing contained in H R 1840 H R 1840 and S 1618 provide for several actions —

- Requires satellite television programmers providing scrambled programming to make such scrambled programming available to home dish antenna viewers at fair rates and on reasonable terms and conditions
- As a last resort, the Federal Communications Commission (FCC) would be the arbiter to resolve any disputes.

Section 705 of the Cable Communications Policy Act of 1984 was enacted more than a year ago to clarify the legality of home reception of satellite-transmitted programming Payment is not an issue Home viewers are willing to pay a fair programming fee to any programmer requesting payment. No court has ordered home viewers to pay a copyright fee

H.R. 1769, H.R. 1840 and S. 1618 are critical to rural areas where satellite dishes are frequently the one link to up-to-the minute news and information These bills will ensure that millions of Americans have continued access at fair rates to educational, informational (weather, livestock and agricultural, etc), sports, cultural and entertainment programming

To co-sponsor H R. 1769, contact Robert Barker, 225-5206, in Congressman Gregg's office To co-sponsor H R. 1840, contact Roy Willis, 225-4031, in Congressman Tauzin's office To co-sponsor S. 1618, contact Roy Neel, 224-4944, in Senator Gore's office

FACT SHEET

S. 1618, Satellite Television Viewing Rights Act of 1985
H R. 1769, Satellite Television Viewing Amendments
H.R. 1840, Satellite Television Viewing Rights Act of 1985

1 The need for legislation exists because more than fifteen television programming services, */ including CBS television network and WOR-TV (New York) have announced plans to scramble their programming beginning in mid-December CBS-TV and WOR-TV programming will not be available to home dish antenna owners, on any terms This refusal to provide service severely affects people who live in small towns and rural areas that are beyond the reach of the network affiliate signal and cable service.

2 The satellite earth station industry has always been willing to pay its fair share, it does not want a free ride.

3 H R 1840 and S 1618 will ensure that if and when signals are scrambled, that (1) access is provided, (2) at fair rates for home satellite antenna owners Companies such as HBO have only recently decided to provide access CBS-TV and WOR-TV have said they will not

4 H R 1769 would place a temporary (two-year) moratorium on scrambling This period is necessary in order to establish fair rates and competitive distribution systems for viewing scrambled signals and to ensure a sufficient quantity of simple to use, economical equipment so that viewers are not cut-off or priced out of the market

5 The satellite services are seeking to charge rates to home dish owners far greater than rates charged to cable systems or cable subscribers (up to 1,000% or more) This is because of pressure from some cable companies who fear competition and want to price dish ownership out of the market. Many programmers are owned by cable or television networks, e g , HBO, The Movie Channel/Showtime, ESPN, MTV We want competition — all programmer plans to date are "cable friendly," selling through cable operators or through 800 numbers at inflated prices Cable operators even want to control distribution through their own consortium

6 HBO wrote Senators Goldwater and Gore that it would not scramble fulltime until enough decoders were available for dish antenna owners. There will be two million home dish owners by year-end It has been reported that only 100,000 decoders could be made available by the end of the year Enough decoder units cannot be manufactured by January 15 when HBO is set to scramble, nor by the summer when The Movie Channel/Showtime and CNN are to scramble.

* List attached

EAST MICROWAVE, INC.
112 NORTHERN CONCOURSE
P O BOX 4872
SYRACUSE NEW YORK 13221
315/455-5555

Dear Affiliate

In response to the cable industry's desire for the scrambling of programming services we are pleased to announce that Eastern Microwave plans to scramble the satellite signal of WOR-TV effective March 1, 1986 While we are currently working with M/A-Com for testing of the uplink scrambling unit and delivery of descramblers, we did want to advise you as early as possible of our plans and policies

Dates Our plans are to test the scrambling system from January 15 - February 28, 1986 It is recommended that you immediately order your VideoCipher II-C descrambler from M/A-Com or Anixter (see attached M/A-Com letter) All affiliates are responsible for purchasing their own decoders Orders should be placed by December 1 to allow for processing, scheduling and shipment Descramblers should be installed by December 15 in order to ensure that installation problems can be dealt with well in advance of the test period Upon receipt of your decoders, return to us the registration card which will accompany delivery so we can authorize your units Your Eastern representative can assist you if you have any questions on these dates and procedures.

Policies and Implementation While the majority of our customers pay promptly, a small number of our affiliates have not remained current on their accounts Also, we believe that in some instances affiliates have failed to secure or maintain copyright authority as required by our tariff Accordingly, we will require prior to authorizing your decoder that

(1) Your account be current and, in the case of chronic late payers, a deposit be furnished to secure future receivables

(2) An affidavit be furnished, in the form annexed hereto, stating that (i) you are a "cable system" as defined under the copyright law entitled to receive and distribute the WOR-TV signal, (ii) registration of your carriage of the WOR-TV signal has been made with the Copyright Office, and (iii) copyright statements of account have been duly filed and payments made pursuant thereto

These requirements are necessary to protect Eastern's status as an exempt carrier under the copyright law and Eastern intends to verify the filing of copyright statements, as appropriate, with the Copyright Office Eastern will provide service only to cable systems and SMATV systems entitled to retransmit distant broadcast signals as a "cable system" under the copyright law This law defines a "cable system" as " a facility that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast signals and makes secondary transmissions of such signals or programs by wires cables or other communications channels to subscribing members of the public who pay for such service " Under Eastern's Tariff No 14 governing WOR-TV service, each affiliate represents to Eastern that it is authorized to receive service and indemnifies Eastern against any damages resulting from the affiliate's failure to secure and maintain copyright clearance Appropriate revisions will be made to our FCC tariff and marketing procedures in order to assure that all current and future customers comply with these standards

As you are undoubtedly aware, the scrambling project we are undertaking involves substantial time, effort and financial outlay on the part of Eastern However, we firmly believe that it is a vital step for our industry and we intend to work closely with our affiliates to ensure a smooth transition

BROADCASTING/CABLE AFFILIATIONS

Company	Cable Affiliation
ABC	Part ownership of Arts & Entertainment Network Lifetime owns 80% of ESPN
CBS	N/A at this time
NBC	Has announced plans to launch NBC Cable News network in 1987
RCA	Just announced KU-band satellite deal with HBO
Group W	Home Theater Network/Event TV owns Group W Cable
Taft Broadcasting	Part ownership of Black Entertainment TV joint venture with TCI to buy and operate cable systems
Turner Broadcasting Systems	Owns WTBS Atlanta, Cable News Network Cable Headline News

EXHIBIT - A

Satellite Network Scrambling Schedule:

The Movie Channel
May 1, 1986

Showtime
May 1, 1986

Home Box Office
1st January 1986

Cinemax
1st January 1986

C.B.S.
May 1, 1986

A.B.C.
First Quarter 1986

N.B.C.
First Quarter 1986

Cable News Network
July 1, 1986

C.N.N. Headline News
July 1, 1986

The Disney Channel
Second Quarter 1986

Music Television Video
July 1, 1986

Nickelodian
July 1, 1986

VH - 1
July 1, 1986

W.O.R.
July 1, 1986

Christian Broadcast Network
February 1986



Well dear it will make a lovely birdbath back there next to our fallout shelter

Don't Take a Bath

Your satellite dish salesman is all wet if he told you that you could get Cable free by home satellite dish Plans are underway for most satellite programming to be scrambled soon That means it won t be available by satellite dish except with the addition of a special descrambler and payment of a monthly fee

If you re considering the purchase of a dish, now is the time to ask tough questions Before you decide, be sure you get ALL the answers

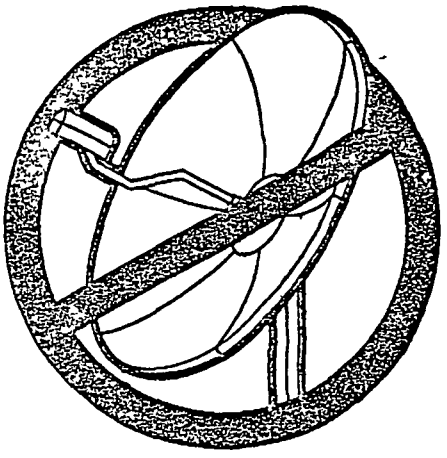
Don't be fooled.

If you're thinking about buying a satellite receiving dish for your home don t let someone convince you that you'll be able to receive all premium cable television services for free

Some premium services, like The Pleasure Channel and ONTV are already electronically scrambled by the people who produce the program service In the next few months, Home Box Office (HBO) and Cinemax will begin scrambling their signals with highly sophisticated electronic encryption devices Later in 1985 The Movie Channel and Showtime will scramble their signals

This theft prevention measure is not limited to premium services either Some basic cable television services like ESPN, MTV and Cable News Network have announced plans to scramble their signals

Don t let someone convince you that decoding or descrambling these signals can be accomplished with the addition of a cheap black box As legal receivers of these satellite signals, we have had to purchase a special decoder for each encrypted channel we provide



and they're not cheap And unauthorized reception of some satellite programming may violate federal law

Someday, legal decoders will be available for home use. But no one knows when and no one knows how much they will cost. We do know that those who get them will have to pay a fee just as we do now

With Cablevision though, you can get most of the signals you and your family want without the expense and inconvenience of having your own satellite dish or descrambling equipment. And if your cable malfunctions, it s repaired free, and usually within a matter of hours after you report the problem.

If you're considering buying a satellite dish, we urge you to ask the dealer some questions first. Don't get stuck with thousands of dollars of useless equipment.

This information supplied to you by Scott County Cablevision Inc and Virginia Cable Inc as a public service

Buying a satellite dish could mean taking a bath.

Premium channels like HBO Cinemax Showtime CBS
unscrambled feed The Movie Channel ESPN MTV and CNN are
scrambling their signals making them inaccessible to
backyard satellite dish reception It's a move that's going to
hurt Urgent to say the least Taking an unwanted financial bath

And while Bob can simply shake off the effects of his bath
it's not quite so simple for satellite dish owners

Not only will you have to lay down a rather large chunk of change for the satellite dish but also for the cost of having those signals unscrambled One by one Channel by channel

There is a simple solution
Cable TV from Group W Cable

Group W's basic cable package starts at just $7 85 a month
Plus you have the option of adding premium channels
As you want them When you want them For just a fraction
of what the premium channels could charge you for satellite
accessibility and a signal descrambler

The choice is yours
You can take a real financial bath
unscrambling signal after
signal or you can let
Group W Cable do it for you

GROUP W CABLE

1250 Terminal Way Reno NV 89502
323 7979

Chris Schlimgen

The Program Networks Are Scrambling!



The parade of the satellite programmers to scramble their signal has begun. On October 15 1985 CBS suddenly scrambled all its national satellite transmissions making it impossible for satellite dish owners to receive all CBS programming and dual sports feeds carried by the network. And almost simultaneously ABC and NBC announced plans to scramble all satellite transmission feeds by year end 1986.

Home Box Office also recently announced plans to completely scramble all four satellite transmissions of HBO and Cinemax beginning January 15 1986. And Showtime and The Movie Channel publicly announced that they are finalizing plans to scramble both services by the fall of 1986.

At the present time ESPN CNN CNN Headline News, WTBS MTV Nickelodeon and VH 1 USA Network, Lifetime, The Disney Channel, Arts & Entertainment and most other popular satellite channels are each developing plans for scrambling.

With satellite dishes popping up everywhere, and more and more people thinking about making a major investment in a home satellite dish, we think it's important to explain the facts behind scrambling and tell the whole story.

More than a decade ago Home Box Office pioneered the use of satellites for the distribution of programming, clearing the way for dozens of new satellite networks to bring an extraordinary diversity of new programming to millions of viewers across the country. However most satellite networks charge for monthly services and derive most of their revenues from

And in order to transmit their programs these networks must pay millions of dollars each year for satellite time to cable home suppliers.

As you may know there are many rental apartment buildings bars and other commercial enterprises throughout the nation that are picking up these signals—without permission and without charge. This is a violation of the copyrights of the artists and businesses who bear the risks and pay to produce programming and with whom the satellite networks have contractual agreements.

The only way for dish owners to receive satellite-delivered programming is to invest a significant amount of money in home satellite hardware. However it is important to note that none of that money goes for programming.

It's for these reasons that many satellite networks will be scrambled soon. This means that the home satellite system you have or are planning to purchase will require a descrambler at a cost of about $395 plus a monthly subscription fee, ranging from $12.95 per month up to $40 or more, dependent upon number of channels subscribed to. This could literally double the cost of your current privately owned satellite dish.

Before you make a major investment in hardware to enjoy satellite programs, we think you should get all of the facts so that you're not disappointed when you can't view many popular satellite networks without significant additional expense.

FOR MORE INFORMATION CALL

CableVision

922-3500

EXHIBIT - B

Tele-Communications Sets Cable-TV Agenda

Firm's Clout Stems From Its Size, Financial Structure

By Laura Landro
Staff Reporter of The Wall Street Journal

In a brokerage firm's new television commercial touting its ability to pick high-growth companies, John Malone, Tele-Communications Inc.'s 44-year-old chief executive officer provides a glowing example. A dollar invested in TCI in 1977 he says proudly, is worth $400 today.

Nearly bankrupt in the early 1970s when cable TV was a struggling loss ridden industry Tele-Communications now is the nation's largest cable company. It is more than twice the size of its closest competitor and sometime joint venture partner Time Inc.'s American Television & Communications Inc. And through its directly owned cable systems and a complex net work of joint ventures Tele-Communications now has interests in more than four million of the nation's approximately 40 million cable subscribers investments in other companies and other acquisitions probably will increase that reach to more than six million this year.

It is not only Tele-Communications' sheer size that has attracted attention. The company is an industry leader at a time when cable finally is beginning to glimpse growth probability and a strong cash flow. But unlike other companies, Tele-Communications unusual financial structure allows the company to care little about net income and to focus on its size big cash flow and tax benefits.

And Mr. Malone and his close-knit management team wield considerable influence over what happens and what doesn't in the cable industry. They use the company's clout—ruthlessly some cable executives say—to exact cooperation and favorable terms from such suppliers as Time's Home Box Office, Turner Broadcasting System Inc.'s Cable News Network, Viacom International Inc.'s Showtime/The Movie Channel and Capital Cities/ABC Inc.'s ESPN sports network.

"They are the toughest negotiators we have, and they utilize their size to drive the hardest bargain," William Grimes president of ESPN says of Tele-Communications. He hastens to add however that "they are also the biggest distributor of ESPN and we have a great relationship with them." Neil Austrian, president of Showtime says Tele-Communications can make or break a program service because if a service isn't carried on the company's systems it is unlikely that programs will get the critical mass necessary to be successful.

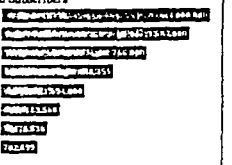
Some industry executives worry that Tele-Communications has too much power particularly when it joins up with Time's American Television unit and other partners as it did in the recent agreement to buy Group W Cable from Westinghouse Electric Corp. for $1.6 billion. Earlier the two oil and gas giants paid $500 million to buy Warner Amex Satellite Entertainment Co. from Warner Communications Inc. and American Express Co.

Tele-Communications' Rapid Growth

Total Subscribers



John Malone, CEO



Tele-Communications' rapidly growing cable systems and those in which it has interests all benefit from the company's size which wins it big discounts from program suppliers and hefty rate increases from cable operators. Tele-Communications says its cable rates are among the lowest in the industry.

Tele-Communications usually reports almost no operating profit and its net income typically comes from dividend income paid by partly owned companies and from the sale of assets.

For 1985, Tele-Communications expects to report net income of about $10 million—per-share net wasn't estimated—on revenue of about $577 million compared with year-earlier net of $17.4 million or 28 cents a share on revenue of $448.4 million. But the company's consolidated results for 100%-owned systems account for only half of Tele-Communications interests. Mr. Malone says the company's interests of 50% or less in other concerns would constitute another company of equal size.

TCI has embraced a radically different financial philosophy than most public companies, a Drexel analyst, John Reidy said in a recent report. Management has focused on maximizing tax-sheltered cash flow. Cash flow quintupled over the past five years. Tele-Communications-owned cable systems and those in which it has interests together will have cash flow as high as $750 million this year, larger than such diversified media companies as Gannett Co. and Knight Ridder Newspapers Inc.

Tele-Communications pays almost no taxes as a result of the high accelerated depreciation deductions and high investment tax credits typical of the cable business. Its debt stands at more than $1.2 billion, its equity at $350 million. But the asset value of Tele-Communications owned and dated subscribers far exceeds $2 billion with affiliated subscribers accounting for another $400 million or more, Drexel's Mr. Reidy figures.

Tele-Communications

Cable scrambles to scramble

BROADCASTING Jun 10, 1985

Operators are united in their desire to stop free interception of programing by home dishes NCTA is working on plan to scramble all signals with costs shared by programers and operators

The message went out loud and clear from the National Cable Television Association convention in Las Vegas No more free rides

It became increasingly certain at the show that the cable industry will scramble the satellite feeds of major cable networks forcing owners of backyard dishes and pirating SMATV operators to join cable operators and their subscribers in paying for the networks

Scrambling is fundamental to the future of the cable business said Larry Carlson senior vice president Home Box Office "If we are asking someone to pay for something that other people can get for free " he said "we don t have a business "

And taking the lead in making sure the networks are scrambled is the NCTA itself At a post-convention meeting last Thursday the board instructed the staff to come up with a plan next month or an industry cooperative that would scramble the signals and presumably oversee the marketing of them t dish owners a service that has come to be call d C band direct It s likely that the plan will call for the cable operators and programers to share the enormous cost o scrambling

Most of he pressure to scramble has come from the cable operators They are concerned about dish dealers coming into their franchise areas and selling dishes to dissatisfied and would be cable subscribers In deed according to a study by First Communications Group nearly one third of all new dishes are being installed in cabled areas And some cable operators (and programers are interested in the additional revenues that can be derived from the C band direct

Joe Gans president Cable TV Co said that he now has to compete with dish dealers who advertiser "that everything [on the satellite] is available for free that you don t have to pay for these services and you never have to pay again "

An NCTA-commissioned study by Malarkey Taylor Associates which was distributed at the convention quantified the benefits of scrambling to the cable industry Assuming that at least 20 services were scrambled and that a marketing infrastructure were in place by 1986 it said operators and programers would realize an estimated positive cash flow of $400 million over the next five years

"These direct financial benefits come from the sale of scrambled programing to backyard dishes (TVRO systems) inside and outside of cable franchises and from recovering cable subscribers who would have switched to TVRO if they could receive cabl programing for free " the study said

John Sie senior vice president Tele Communications Inc said "There is only one primary reason for us to want the signals to be scrambled and that is to protect the integrity of the product we sell to the public in our franchised areas TCI is not really interested in chasing the pot of gold described in the Malarkey study " he said

Scrambling to protect product integrity is not unprecedented in the cable industry Sie said In the 1970 s cable operators began scrambling HBO and other pay services on their systems to prevent nonsubscribers from receiving and watching them for free When the industry scrambles the satellite feeds he said "it is really not doing anything revolutionary or different "

Most of the basic programers have lined up in support of scrambling even though they have no real economic incentive to scramble David Horowitz president and chief executive officer MTV Networks was speaking for his company but could have been speaking for most basic programers when he said We strongly believe that piracy of our services and the resulting unfair competition to the cable operator must be stopped "

The programers have been persuaded by the promise of cable operators to pick up the biggest cost of scrambling—the headend descramblers—and by not so-veiled threats of economic reprisals Said Trygve Myhren chairman and chief executive officer American Television and Communications "I am not going to pay for [a programing service] if other people don t have to pay " If a service doesn t want to scramble said Sie at the scrambling session "then we certainly don t want to continue to support it on our systems "

If the NCTA steps in to scramble the services others may have to step aside namely Satellite Broadcasting Corp a start up company headed by former Warner Amex Cable Communications executive Holmes Harden and Showtime/The Movie Channel Both have tried to put together packages of scrambled services and enter the C band direct business

Harden said he has no problem with the cable industry paying for the scrambling system as long as the operators don t insist on exclusive distribution rights to the programing "If they do that then we are out " he said "But I question whether they can do it" without violating the antitrust laws he said

Harden who has promised to cover the cost of scrambling (between $75 million and $100 million) for more than a score of program services in exchange for their C band direct rights met with programer twice during the convention To mitigate the programers concerns about cutting out the cable operators Harden reiterated at the first meeting his plan to pay commissions to operators who sell the SBC service locally At the second Harden asked the programers to put up $75 000 for an evaluation of the various scrambling techniques Although one programer who attended both meetings said the programers were not enthusiastic about Harden s scheme the fact that they showed up in force indicated that they were still interested

So far, only Home Box Office is equipped to scramble its services According to HBO Inc senior vice president Larry Carlson some 12 000 descramblers have been installed at the headends of HBO and Cinemax affiliates HBO is now scrambling the West Coast feeds of the two services for 12 hours a day he said and it will scramble East Coast feeds soon

HBO is using the M/A-Com Videocipher II scrambling system and thinks it should become the standard "We think it is in everyone s best interest to utilize the same system " said Carlson "It will mean far less expense for all programers It will greatly expedite the scrambling process which we feel is key And if the same technology is employed we will avoid potential political and legal problems that will arise if the end user is required to purchase separate descramblers to obtain different services "

M/A-Com is doing its best to insure the industrywide use of its system According to to M/A-Com Vice Chairman Frank Drendel it is setting up a central computer on Long Island in New York that would authorize or deauthorize descramblers whether they are located at cable headend or in the homes of C-band direct subscribers The computer which should be ready for operation by the end of the year will be set up as a "free trade zone " Any programer or provider of C band direct service using the M/A-Com system will have access to the computer he said

Drendel and others believe producing the home descramblers in large quantities is critical to the entire scrambling effort. If the programers scramble their signals before the one million dish owners are able to purchase descramblers, they said the dish owners and dealers will raise a hue and cry that will be heard in Washington "You can t scramble unless the consumer has some way to effectively descramble " he said The dish owners won the right to receive unscrambled satellite signals in the Cable Communications Policy Act of 1984 that went into effect last December

M/A-Com is trying to license the Videocipher II technology to several consumer electronic firms But so far he said the firms have balked not believing that the cable programers will really scramble Said Drendel "This is the greatest chicken and egg thing I ve ever seen "

□

EXHIBIT - C

CABLE SCRAMBLING PLANS UNDER INVESTIGATION AT DEPARTMENT OF JUSTICE

Justice Department Antitrust Division has begun investigation into "possible restraints of trade involving the scrambling and distribution of satellite programming," it told industry leaders Tues

Barry Grossman, Div 's Chief of Special Regulated Industries Section (which will shortly be renamed Communications and Finance Section as part of Justice Department reorganization), imparted news to NCTA, Community Antenna TV Assn (CATA) and cable companies in letter Sept. 24 but said little about type or extent of investigation Letter merely asked industry to "refrain from destroying or altering or otherwise disposing" of documents or records on scrambling plans CATA, NCTA and others say they will cooperate

Letter stops short of making "civil investigation demands," (CIDs) which DoJ spokesman said would apply subpoena powers and other protections of law to investigation target But investigation nonetheless is formal, despite contrary view of some in cable industry "There's nothing informal about it," said DoJ spokesman, Mark Sheehan DoJ source in investigative branch added "In the earlier stages, we like to try for informality" without compulsory nature of CID

Investigation apparently will target potential antitrust implications of industrywide scrambling on home dish users and dish manufacturers, Justice spokesman confirmed At issue is whether coordinated scrambling effort, either in consortium by NCTA or under cooperative agreement by programmers, would discriminate against particular scrambling system manufacturers or dish users Also issue is anticompetitive implications of cable operators' desire to be sole distributors of decoders in their franchise areas

Cablers had been expecting Justice investigation, industry sources said. CATA Exec Dir Stephen Effros said "It would only have been news if this had not happened, given the sensitivity that we have all acknowledged regarding the antitrust laws " Effros said NCTA, CATA and other cablers, who have been discussing scrambling consortium, "fully expected" DoJ "to be interested in what we were doing and we are more than willing to explain it to them "

Effros suggested investigation might be premature, however, because industry's scrambling plans are unsettled "I don't think there's anyone in the cable industry who's either surprised or concerned because we're well aware of the sensitivities " NCTA also said it wasn't "least bit surprising" that Justice was doing investigation Antitrust questions have been discussed in negotiations over scrambling consortium

COMMUNICATIONS DAILY Thursday, September 26, 1985

Major Satellite Program Serv Industry Cross-Ownership Considerations

Major Program Services	# Cable Subs.	Owned By Entities With Other Industry Interests
BASIC (Ad supported)		
Arts & Entertainment	17 3 mil	Hearst/ABC/RCA
*Black Entertainment TV	12 mil	50% TCI/HBO/Taft Broadcasting System
*Cable News Network	33 5 mil	Turner Broadcasting System
*CNN Headline News	17.2 mil	Turner Broadcasting System
C-SPAN	23 mil	Non-profit & cable funded
*CBN Network	29 7 mil	
Country Music TV	5.3 mil	
The Discovery Channel	8 0 mil	
*ESPN	36 9 mil	80% ABC/20% Nabisco
*Financial News Net.	19 4 mil	
The Learning Channel	6 3 mil	
*Lifetime	24 mil	Hearst/ABC/Viacom
*MTV	27.8 mil	Viacom
*The Nashville Net.	23.8 mil	
*Nickelodean	26.2 mil	Viacom
PTL	12 5 mil	
*SPN	11 9 mil	
SIN Tele Net	32 7 mil	
*USA Network	30.6 mil	Paramount/MCA/HBO
*Video Hits-1	8 9 mil	Viacom
The Weather Channel	19 7 mil	
*WGN-TV	16 8mil	
*WOR-TV	5 4 mil	
*WTBS TV	35.2 mil	Turner Broadcasting System
PAY (Subscription Supported)		
*Cinemax	3 3 mil	Time Inc
*The Disney Channel	2.34 mil	Walt Disney Productions
*Home Box Office	14 5 mil	Time Inc
*Home Theater Net.	300	Group W Broadcasting
*Showtime	5 4 mil	Viacom
*The Movie Channel	3.3 mil	Viacom
*The Playboy Channel	732	
OTHER		
X Press (data)	new	TCI
Home Team Sports(reg 1)	138	Group W Broadcasting
SportsChannel (NY/N Eng)	500	Cablevision Systems/The Wash Post
Viewers Choice (PPV)	new	Showtime/The Movie Channel
Event TV (PPV)	new	TCI/ATC/Group W Broadcasting

*Networks which have announced scrambling plans for 1986/1987

CABLE OPERATING COMPANIES with SATELLITE PROGRAMMER AFFILIATION

Cable Company	*Cable Subs Nationwide*	Has Ownership Affiliation With Satellite Prog. Services
TCI (Telecommunications) (Ranks #1)	3.8 mil	Black Entertainment TV X Press (data) Event TV (PPV)
ATC (American Television & Communications) (Ranks #2)	2.6 mil	Event TV (ATC is owned by Time Inc which also owns HBO & Cinemax)
Group W (Ranks #3)	2.1 mil**	Home Theater Network Home Team Sports Event TV
Viacom (Ranks #11)	8 mil	Lifetime MTV Nickelodeon Video Hits 1 The Movie Channel Showtime Viewers Choice (PPV)
Cablevision Co (Ranks #14)	500 mil	SportsChannel

* Paul Kagan & Associates Nov 30 1985

**Group W now negotiating to sell its cable systems to a TCI/Time Inc/Comcast Cable consortium (MultiChannel News Jan 6 1986)

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CONGRESS TO STOP CABLE MONOPOLIES

FROM ABUSING RIGHTS OF SATELLITE DISH OWNER

--Schedules Hearings on March 6 --

TO FOCUS ON CABLE ATTEMPTS TO OVERCHARGE DISH OWNERS

AND CONTROL SALE OF PROGRAMMING

ALEXANDRIA, VA, January 20, 1986 -- The Satellite Television Industry Association (SPACE) is elated at the timely announcement of the House Telecommunications Subcommittee to schedule hearings March 6th on the heels of full-time scrambling by Home Box Office and Cinemax

The hearings will focus on the attempts of cable TV companies and satellite program networks to monopolize distribution and to overcharge consumers for satellite TV programming

The hearings will be conducted by the House Subcommittee on Telecommunications and Finance of the Commerce Committee SPACE applauds the efforts of Rep Timothy Wirth (D-CO), chairman of the subcommittee, for moving quickly, in such a timely manner, to schedule the hearings on March 6th

The hearings will help ensure that consumers are not denied access to any scrambled programming, that programming is available at reasonable rates, that coercion of programmers by cable TV companies is stopped, that decoders are readily available, and to erase the misperception, much of it rooted in inaccurate media reports, that more than one decoder will be required The hearings will also focus on a number of house bills designed to protect the interests of earth station owners H R 1840, which ensures access to programming at reasonable rates and H R 1769, which would place a two-year moratorium on scrambling Rep Billy Tauzin (D-LA), Rep Judd Gregg (R-NH) and Senator Albert Gore (D-TN) -- authors of the pending legislation -- welcome the subcommittee hearings

"Subcommittee hearings of this nature are of paramount importance to the industry and for earth station owners, who are willing to pay reasonable rates for programming," said Taylor Howard, Chairman of SPACE, "and to help ensure in the future that millions of other households will have access to satellite TV programming as well," he added

The earth station industry developed, for the most part, in rural areas where broadcast reception was difficult, if not impossible, and in areas way beyond the coaxial wires of cable TV Like any new product, the early growth of the satellite

earth station, or satellite dish, was saddled by its large size and high ticket price However, technological advancements and price reductions over the years have increased its popularity among U S households, and as a result, it is now found in more than 1 5 million homes

Rep Wirth has recognized the potential of this exciting new technology and understands the benefits that it offers to consumers in rural areas, to consumers who just prefer owning a dish rather than subscribing to cable TV and to consumers who live in cable franchised areas and who demand more choice than offered by cable TV

SPACE, a national trade association based in Alexandria, VA, represents the interests of manufacturers, distributors and dealers of satellite earth stations and also the interests of satellite earth station owners

# # #



July 16, 1985

Charles F Howard Jr
7020 Yule Ln
Tampa, FL 33617

Dear Mr Howard,

Thank you so much for your interest in CBN Cable Network, and for taking the time to share your concern over the scrambling issue

One of the major factors in the scrambling decision is the threat from cable operators to refuse to carry a network's programming if the network decides not to scramble In other words, for many networks, unscrambled programming could equal no programming at all

CBN is one of the few cable television networks that provides programming free of charge It is our desire that our programming be available to all who wish to see it, without any obstacles of finances or scrambling Currently the scrambling question is still under evaluation by CBN, please know, however, that if we ever do scramble our signal, it will not be at the expense of a subscriber's ability to view the "700 Club" if he so chooses

Again, thank you for writing, and for watching the CBN Cable Network

Sincerely,

Jodie Rundle
Public Liaison Coordinator

MULTICHANNEL NEWS JUNE 24, 1985

Scrambling To Cause CBN To Impose Fees

VIRGINIA BEACH, VA—CBN Cable Network, the last large basic cable network with no per subscriber fee, plans to charge such a fee with the advent of scrambling, according to Tom Rogeberg senior vice president at the network The amount of the fee and the exact date of implementation have not been determined he said

Mr Rogeberg said CBN's decision to charge was based on conversations with multiple system operators at the National Cable Television Association convention, where the operators said they won t permit carriage of net works that don t scramble. CBN had not considered charging a fee before June 1 he said, and intended to remain an advertiser supported channel But scrambling would change that scenario, he said

Scrambling would mean there would be an extra charge for the equipment required to scramble and also would give cable operators the rights to exclusive distribution of our programming This could limit our outreach and we believe we would be entitled to be compensated in some manner he said

While no rate has been established Mr Rogeberg said that a rate for CBN would be lower than some services, such as CNN which has to provide a more expensive operation

At American Television & Communications Corp., Gene Linder, executive director of programming and production said his company is currently in the process of renewing its contract with CBN, and said he had not heard of the proposed fee. "We understood that it would remain free We feel that until our product is exclusive to cable, the perceived value won t be what it should be but this per sub fee is all new to me he said.

Cox Cable director of programming Terry Freedman, when told of CBN s possible sub fee said, It s their obligation to participate in scrambling. Everybody is going to sacrifice something when it happens I don t see that scrambling should change anything

"It wouldn t go down in the industry if scrambling becomes an excuse for basic programmers who weren t charging to charge or for those who do to raise the rates in existence Their audited numbers will go up, not down," he said □

STATEMENT OF PATRICK T GREER

Mr GREER My name is Pat Greer, and I'm a small distributor up in the Four Corners area, representing about eight dealers in that area, and my testimony actually takes the form of a letter that I wrote to Mr Richardson

Dear Sir I am a satellite distributor, and I met you at the town meeting in Farmington At that time you invited me to testify on satellite viewer rights at your fact-finding meetings in Santa Fe Please include this testimony in the minutes of your meeting and take them back to Washington as you defend our viewer rights

First of all, let me state that I am not against the principle of scrambling the satellite signal As in any business, I do believe that it is the right of the broadcasters to charge for their commodity I am also not against your disclosure amendment to the current satellite bill pending in Congress Most reputable dealers have warned their customers before their dish was purchased

I have a little to add about that at the end of this

The problem in the industry right now is the scrambled signals and parity as far as cost to the satellite dish owner At present, the cost of the descramblers, $395, and the monthly fees, $12 95 for one service and $20 for two services per month, are excessive When the other programmers scramble, the home dish owner could face monthly fees of over $100, some say as high as $200 to $300 per month

A good example would be a Chevrolet dealer that sold a particular car to one segment of the population for one price and the same car to another segment for a higher price, and all of the people had to shop at this particular car dealer This translates into unfair pricing and unfair competition

I realize Congress would like to see this problem worked out in the marketplace instead of having to legislate the matter However, if things continue to go as they are now, we will definitely have an industry that will die due to unfair competition Please protect our rights and don't bow to cable company pressure Just let us compete on the same level

I have one more thing I'd like to add that's not in my written testimony As far as your disclosure bill is concerned, when I wrote this letter, I hadn't read it And I think it's important to tell you that the company I represent has been doing it for 2 years with our literature and everything I think you can add any one of the people in this room

Consumers at this point are overeducated on the scrambling Due to all the press HBO received in what they scrambled, most of them right now think that everything is scrambled People, they come in to my business, figure that everything—the skies are going dark I think to make this law fair, we can inform the public that certain channels are scrambled or are going to be scrambled, but I think we also must inform the public that descramblers are available and that programming may be descrambled at a reasonable price And I think that should be part of your disclosure, not just point out the bad part, but also the good part Descramblers are available and, "Hey, look, for x amount of money, something that can compete with the cable companies, we can set it up"

Mr FLORIO Mr Buttry

STATEMENT OF DONALD BUTTRY

Mr BUTTRY Mr Chairman, Mr Richardson, ladies and gentlemen, my testimony is confined to the letter I submitted to Mr Richardson I would like to read that, and I would like to make an additional comment on it

Dear Sir Thank you for the invitation for me to testify at your upcoming field hearing in Santa Fe on February 15, 1986 I am a satellite dealer/installer, and I

was one of the satellite dealers present at your town meeting in Farmington in January of this year Please accept this testimony on the subjects of satellite viewer rights and licensing of satellite installers

At this time I would like to make it known that I am not against the issue of scrambling, as I do believe that any business for profit does have the right to charge for their product or service However, I do have some reservations as to whether or not it is necessary for the advertiser-supported channels to scramble their signals Also, I do not have any particular objections to your disclosure amendment, for I believe that any reputable dealer is going to disclose the information of current and future concerns regarding scrambling and possible fees that will be charged

The existing problem with the scrambling issue is the nonequal pricing techniques that are being suggested and the possibility of some broadcasters denying service to the Earth station owners Common knowledge of the satellite industry indicates that a vast majority of the existing satellite owners are located in a rural area that is not at this time and probably will not be accessed by any form of cable TV These satellite earth station owners have purchased their receiving equipment in good faith that they would not be denied access to satellite TV signals These private receiving systems do not tax the programmers or the cable TV in any form Therefore, I believe that the private owners should have access at a reasonable fee, not to exceed the fee paid by cable operators for the exact same service

I would like to add to that, the cable operators, meaning what HBO and the other programmers sell to cable operators, not to the field subscribers

However, it might be acceptable for an adjustment to be added where the Earth station owner does have access to some form of cable TV These people do have a choice, but rural America does not have a choice

Next I would like to address the required licensing in New Mexico The New Mexico Construction Industries Act states in 60-13-4 that the purpose of the license, in general, is to protect the people of New Mexico against substandard or hazardous construction, and doing that by examination, licensing and certification of the occupations or trades to ensure or encourage the highest quality of performance and compliance with approved standards

Satellite installers are classified under ES-6, which is titled Cable TV Cable TV is an entirely different trade, compared to satellite earth stations I have taken the exam for cable TV, and it does not pertain to the satellite trade at all Therefore, based on my involvement, I fail to see how the Construction Industries Division can accomplish the purpose of the licensing as set forth in 60-13-4 with this particular approach I do disagree with the new requirement that satellite installers be licensed under ES-6, Cable TV, when this same trade that we are being tested under is listed in the Construction Industries Licensing Act in 60-13-3, Paragraph C, Item 16 as, does not include " Why should satellite dealer/installers be required to be licensed when cable TV is not included?

The New Mexico Construction Industries Division has now, February 6th, changed horses in the middle of the stream, so to speak, as they have notified myself that they will no longer require installers of satellite earth stations to be licensed, so long as the installations are confined to residential only They do, however, require still this same licensing for commercial installations

I realize that everyone hopes that the free enterprise system of our good country would work out the differences between the trades involved, but it does appear that some sort of assistance or guidance would be in order

Thank you

Mr FLORIO Thank you very much We thank all three of the witnesses for their very succinct and, frankly, their conciliatory approach to the problem, acknowledging the fact that there are certain rights on each side, but, again, highlighting what is the essence of the real problem That is the absence of communication and the absence of coordination between the various segments of the communications industry, the satellite dish industry being one aspect, cable being another, network being another

You've all stated that you have no problems with the major thrust of Mr Richardson's proposed bill, which is really to provide notification, fair notification, to consumers That is always the case, of course, when you deal with those people in any industry who do the right thing to start with They have no problem with it But as with most industries, there are always those few people out there that may not be completely forthcoming with regard to information So this type of legislation that Mr Richardson is considering may be desirable to ensure those who purchase dishes purchase them with full knowledge about potential limitations on the reception capability

To what degree is this new industry that you're involved with organized on an industrywide basis? Are there associations that are forming to spell out industrywide guidelines and advertising policies?

Mr LANDIS May I comment on that?

Mr FLORIO Yes

Mr LANDIS Yes, we've got a very active national organization called SPACE, which has set some rather high standards for public education It has gone as far as to send out to different areas of the country examples of what is good advertising and what is bad advertising And that kind of education to us lets us know, you know, we look around and we can see if there's any bad business being done

Now a lot of that, what has been called misleading information, was based on a naive—1 year ago, not very many people were aware of the limitations or all of the possibilities that this technology was offering, 2 years ago, nobody knew anything about these dishes, except there were a couple in the State I think we're seeing public awareness coming up as a result of lots of coverage by the media, much of that coverage not dealing with the whole range of issues at stake here

I think, as we look around, there is a very, very small percent of dealers that are not being straightforward with their customers And I believe our State organization—and like I mentioned, State organizations are forming all over the country with some guidance from our national organization I believe these State organizations would stress consumer awareness and tell them to look for a dealer that is part of an association which holds high standards Such steps, I think, would put pressure on anybody using substandard advertising I think it would put pressure on those dealers to come up to our standards or get out of the business

Mr FLORIO Let me move on to the point of the balance of your testimony, which was the potential problems associated with satellite dishowners not being able to get at affordable costs transmissions from cable television stations as well as from network stations

The problem, as I see it—and we're going to have representatives from the cable industry here in just a short time—is not only that the charges that would be imposed have to be reasonable and certainly not in excess of what normal cable subscription costs would be, but I also see a potential problem down the road in terms of the cost of the descramblers Unless there is some degree of unanimity that is technically capable of being done, people with satellite

dishes are going to be required to buy a descrambler for one service, another descrambler for another service, another descrambler for a network service And that, in and of itself, becomes very costly, to say nothing about the monthly service fees that hopefully will be kept reasonable

I'm not sure that there are any discussions going on, first of all, to see if it's technically feasible to have coordinated scramblers, so that you buy one and you are able, therefore, to pay a monthly fee for the service and not have to be required to buy multitudes of couplings or decoding pieces of equipment

Are you aware of anything that's being done to address that technological problem inherent in the need to unscramble multiple-service codes?

Mr GREER One of your colleagues, Mac Sweeney, of Texas, has introduced H R 1389—I believe that's the number—and that addresses this problem It sets down some standards It sets down some standards that the industry would have to agree on before they can progress with scramblers And those standards are confined to a de facto descrambler that the industry will use, and that's part of his bill You might take a serious look at that

Mr FLORIO That's the moratorium approach, wasn't it? It is until those things are done, or was that a flat-out prohibition?

Mr GREER It would require a meeting by the FCC and various other people to determine which descrambler should be used And there are people that can argue the point back and forth The first 18 people to scramble on satellite prior to HBO used one particular descrambler Now HBO comes along and they use a different one

Mr FLORIO What's the sanction in the law until you reach that point?

Mr GREER There isn't any

Mr FLORIO There isn't any So in other words, what you're hoping for is that someone will work with the FCC and all the providers of network programming and cable programming in a good-faith way that will try to do that That's helpful if they do But if they never arrive at that, that's not providing any remedy to those that might be faced with buying multiple descramblers Mr Landis

Mr LANDIS I would like to comment on that The scrambling method, which HBO is using at this point, has in the cable industry become a de facto standard It's not on the books, but it's obviously to the benefit of any potential services that expand viewing base, as well as keep the costs manageable to a dishowner The scrambling system they use would unscramble 75 different services, one piece of equipment, each service individually addressable

Now that addressability means that you can fall behind a payment on one particular service They have got control from the broadcast point to switch off one service and leave another service in order That capability should—they're building these descramblers into receivers that are coming up on the market next year And I see a lot of confusion in that direction in how many decoders will I need? I think that is being addressed by the technology that——

Mr FLORIO That's extremely helpful Let me yield to the gentleman from this State

Mr RICHARDSON Thank you very much, Mr Chairman I want to thank my dish industry representatives for what I think is very conciliatory and positive testimony I especially appreciate what Mr Greer said about his suggestions Initially in my bill I had language instructing consumers to ask the dealers about which stations would scramble We took that out, but perhaps we can work with you to put that back in I think your suggestion that we also make positive suggestions might make some sense

And maybe you and Mr Landis could answer this next question You both mentioned in your testimony that the industry itself might be the best agent to police its members to properly instruct the public How do you think this can be done without perhaps resorting to legislation?

Mr LANDIS Well, I think by making the public aware that there are organizations that are concerned about high quality, trade organizations at both national and local levels, I believe we can bring the consumer's awareness up We've seen over the last 2 years no awareness or very little awareness of dishes' capabilities, to last year, lots of awareness of the proposed scrambling and limitations of the system I believe public education, when approached right, is very effective And I think we can police our own organization, because that would serve our whole industry And I'm sure Congress has got some other very important matters to work on without distracting itself with this complex issue

Mr RICHARDSON I will ask the witnesses to please take the microphone Are people in the back having trouble hearing? When you speak or answer questions, just take the mike and put it fairly close to you

Mr Greer, do you want to answer that, also?

Mr GREER I'd like to make a short comment The people in the satellite industry can't afford to go into an advertising battle with the cable companies It's been proven throughout the United States that every time a local dealer gets into some sort of argument via the newspapers or radio with the satellite companies, they lose miserably And it's a question of money And we are not as well organized in the rural areas as some of the larger areas are

So, therefore, what we need is word from you We want you to assure the public that their rights will be protected, that prices will be reasonable, and we want you to get that out to the press We can't afford to be running ads in every local paper We need to get coast-to-coast coverage from people like you saying, "Don't worry, you can buy a descrambler, the prices are going to be reasonable," and let our industry grow and compete

Mr RICHARDSON Mr Buttry, I'd like to ask you a question Do you think that you would be willing to work with the State of New Mexico to have some kind of guidelines relating to dish installing, some kind of regulatory cooperation between you and the State? And the second part of my question is, you mentioned the licensing of dish installers Do you think this should also be a priority for you?

Mr BUTTRY On the first part of your question, Mr Richardson, I would be more than glad to work with the State in any way that I can to get the criteria of their licensing or whatever it is determined to be, in order to get it pertaining to satellite and not cable

We need it in the trade that it's being tested in, primarily The second part you asked, reference the licenses, would you repeat that, please?

Mr RICHARDSON I believe in your testimony—let me see if I have it here—you mentioned that you thought licensing in general would help your industry Or maybe I——

Mr BUTTRY Yes, my comment there was in relation to the required licensing of satellite installers, compared to cable, and why should one be required and the other not? The answer to your question, sir, is I don't believe that it would be effective to protect the public because I'm sure we're all aware that the State does not have the personnel to police this type of action

Mr RICHARDSON Let me just make a final comment to all of you I will work with you I think, after this hearing, we should convene to discuss the exact language of my bill There are drafts of it which I'll make available to the public, the notification bill, which the chairman mentioned

And I want you all to know that on the two other bills, the moratorium bill and the satellite viewer rights bill, that we will press on and try to get these bills passed They are in our committee I do think they are a priority, because I sense there is a bit of a lack of protection for many dishowners, and I see this as being something that should be a priority of our committee

But I especially want to thank the three of you for your statesmanship and your ability to work with us and your reasonableness And for that reason I think that all the people that you represent, your satellite dish users, your consumers, you've made them, I'm sure, very proud that you've done so well Thank you

Mr FLORIO Let me ask just one last question for my own education I assume the three of you are competitors, is that correct?

Mr GREER We're in different parts of the State

Mr LANDIS Yes

Mr FLORIO That's an interesting set of understandings for me to have There are no official franchise areas that you have, are there?

Mr GREER No

Mr LANDIS No

Mr BUTTRY No

Mr FLORIO So is it a de facto result that there isn't overlapping competition between the satellite dish distributors, or is that something that's consciously done?

Mr LANDIS No As a matter of fact, there's a fairly high concentration of satellite retailers in all areas of the State

Mr FLORIO So if I don't like your product, Mr Landis, I can go down the street somewhere and talk to someone about providing me with a satellite dish, and that fellow will offer me an alternative?

Mr LANDIS Yes You can go right up and down Main Street in this town and form your own opinion on dealers and the products and services they offer There is lots of variety I think that this gentleman's part of the State is at least as concentrated as ours

Mr FLORIO Is that the case with the other two gentlemen?

Mr GREER In the Four Corners area, this business is a big industry because of all the rural people, especially on the reservation

and in the outlying areas We're far enough away from Albuquerque where a TV signal is not received other than by cable

Mr FLORIO Mr Buttry, in your area, as well?

Mr BUTTRY Very much so I live in Lindrith Around the Cuba area is my primary area, which is also serviced by Espanola, Santa Fe, Albuquerque and the Farmington area So it is a wide range of competition The customer does have a definite range of choice

Mr FLORIO Gentlemen, the committee thanks you very much for your participation today Your testimony has been very helpful Thank you very much

We now go to our second panel of witnesses that is made up of representatives of the cable industry I would like Mr Dennis Edwards, president of the New Mexico Cable Association, to come forward Mr William Brooks, of Belen Cable Vision Company of New Mexico, and Mr Dale Strong, of United Cable of Santa Fe, New Mexico, please come forward Gentlemen, we welcome you to the committee Mr Edwards, we'd be happy to hear from you

STATEMENTS OF WILLIAM BROOKS, BELEN CABLE VISION; DALE STRONG, UNITED CABLE OF SANTA FE; AND DENNIS EDWARDS, PRESIDENT, NEW MEXICO CABLE ASSOCIATION, ACCOMPANIED BY JOHN PFEIFFER, AREA MANAGER, TCI CABLE

Mr EDWARDS At this time I would like to turn it over to Mr Brooks to start our testimony

Mr FLORIO I'm sorry

Mr EDWARDS I'd like to turn it over to Mr Brooks

Mr BROOKS Mr Chairman, Mr Richardson, my name is Bill Brooks I'm an owner and operator in Belen, NM, of two small cable systems with 1,300 subscriber households Joining me today are Dale Strong, general manager for United Cable of Santa Fe, Dennis Edwards, who you have already indicated is president of our State Association and general manager of Post Newsweek Cable of Roswell, NM, and John Pfeiffer, who is area manager for TCI Cable, and he is headquartered in Hobbs, NM And he is here not to give testimony, but to respond to any committee members' questions

We are, of course, here today to discuss the scrambling of satellite viewer cable programming, the suspension by cable operators and others of the sale of those descramblers, and the consumer protection concerns that you have expressed about the sale of TVRO's

Recently the Board of Communications Group, an organization that reports on the home satellite industry, indicated New Mexico has the third highest concentration of TVRO's in the United States There are about 15,000 TVRO households in New Mexico that presently are not paying for most of the same programming that 159,000 New Mexico cable households do pay for

When Congress enacted the Cable Communications Policy Act of 1984, it provided narrow exceptions to Federal restrictions against the interception of the satellite transmissions These restrictions were extended to include the manufacturers, distributors and dealers of equipment used for such illegal interception And specifically, that narrow exception permits the private viewing of satellite cable programming without payment by backyard dishowners,

unless either, A, marketing systems exist to sell unscrambled programming, or B, such programming is scrambled

Now if either of these two situations does exist, then interception and viewing of that program without payment by backyard dishowners is prohibited specifically by the Federal law

Satellite cable programming means video programming transmitted via satellite, used primarily and intended for the direct receipt by cable operators for their retransmission via wire to cable subscribers The exception does not apply to the broadcast network feeds or any other communications transmitted via satellite Any commercial use of satellite cable programming is prohibited

The programming at issue here originally was put up on the satellites for private distribution to the cable operators, under contract to the programmers, to retransmit their product at retail to the consumers Satellites offer more efficient and economical means for programming wholesaler distribution vis-a-vis the old pipelines and thruster communications And just as the telephone industry now uses satellite delivery for long-distance connections, the cable programmers do the same for the distribution of their products to their cable operator affiliates

In the early eighties, reductions in cost of Earth stations, coupled with the elimination of FCC licensing requirements for home Earth stations, resulted in a veritable explosion of sales of home TVRO's Many of these Earth stations were placed in commercial establishments and remain there, motels and taverns Many others were placed in private residences Originally, those home dishes were purchased primarily by people in rural areas Now, however, the rural market appears somewhat saturated, and the hottest selling segment of the dish market is in the areas that have been wired for cable

Cable operators and cable programmers cannot continue to provide new and innovative programming if they begin to lose revenues from traditional cable markets It's difficult to remain in business if you're giving the product away to some of your potential customers, so a means to protect cable programming from revenue erosion arising from interception of the satellite transmissions had to be developed

That method of protection is known as scrambling You have before you or near you over there the consumers' descrambler Scrambling and the marketing of descrambled programming to TVRO owners ensures continued access to cable programming by TVRO's and cable subscribers Scrambling provides a mechanism to obtain revenue for programming and allows competition between those competing technologies, cable and TVRO, to continue on a more even footing

In a moment my colleagues will discuss how cable operators are providing these programming services But if I may, Mr Chairman, I'd like to submit the written comments of David Bradford, who is the vice president and general manager of Albuquerque Cable Television, which is presently under ownership transfer from the Tribune Co to Jones Intercable

Mr FLORIO Without objection, we'll stipulate it's part of the record

Mr BROOKS Thank you Mr Bradford echoes Mr Richardson's spirit of cooperation between cable and TVRO's in his letter and calls attention to the fact that the new proprietor of that 50,000-subscriber system in Albuquerque, Jones Intercable, has already started communication with TVRO dealers in our area, indicating their willingness to cooperate in the marketing of the scrambled signals and whatever that entails I will pass this along

Mr FLORIO Mr Strong, we'd be happy to hear from you

STATEMENT OF DALE STRONG

Mr STRONG Thank you, Mr Chairman, Mr Richardson I am from Santa Fe, NM, where our cable television system serves about 9,000 households I would like to build on what Mr Brooks has discussed about our efforts to serve the home TVRO market By the way, Mr Chairman, in New Mexico there cannot be an exclusive cable franchise given And in fact, in Santa Fe there are currently three active, operating franchised cable companies There have been two in operation simultaneously in Albuquerque So in New Mexico, at least, the exclusivity question is moot

Mr FLORIO Is that a legal prohibition?

Mr STRONG That is correct, yes

Mr FLORIO Statewide or——

Mr STRONG Statewide Cable programmers, Mr Chairman, are the people who have put all of us into this scrambling situation The programmers have been beaming programs down from the satellites for several years now, primarily for the benefit of cable television companies and their paying subscribers We cable people, of course, pay the programmers for their services, and legal cable subscribers are the ones who have created the distribution system for this They are the ones who pay to maintain it through their subscriber fees

The programmers now are scrambling their signals in order to protect the integrity of their products and to create a market among dishowners, who until now have had a free ride at the expense of the programmers and customers

In order to serve the home dishowner, a technology has evolved which is inexpensive and should be quite reliable for the dishowners and the programmers The dishowner now can obtain a signal descrambler, which you see in front of you, which will enable him to receive every subscribable program service that he wants to pay for The technology for this comes from MA-COM, one of the Japanese leading electronic firms, which produces the Video Cipher 2 scrambler The unit there in front of you is the matching home-use MA-COM descrambler And with that unit, properly authorized, the home dish customer can subscribe to the scrambled programming he may want, just as a cable subscriber chooses the services he wants and pays for

On January 15 this year HBO and Cinemax turned on their satellite scramblers full time On that day we had in our office these MA-COM descramblers, available to dishowners who want to subscribe to HBO or Cinemax The unit, by the way, is capable of descrambling up to 56 services We are told that MA-COM can immediately deliver 25,000 of these descrambler units to customers

across the country And production of the units, depending upon demand, could reach several hundred thousand by the end of 1986 Also, it is likely that these addressable descrambler units will, as has been noted previously, be built into the next generation of dishes They will be part of the dish itself

But there has been no mad dash to get these descramblers HBO and Cinemax have been scrambling for a month now, and locally we have not sold a single descrambler Nationally, only about——

Mr FLORIO As I've indicated, the rules of the House do not permit demonstrations, so we appreciate that not happen again Mr Strong

Mr STRONG Nationally, only about 3,000 of the units have been sold Obviously, some marketing needs to be done The programmers are selling the descramblers directly to dishowners Locally, at least one dish dealer has the descrambler available, according to his advertising, and so do we So there's good competition in the field, competition that is developing, competition which will ensure that the dishowner pays a fair price for the programming he wants, with competition to market the descramblers in all corners of this quite rural State

For example, if a dishowner arranges for HBO service through us, he will pay exactly what our cable customers pay for the service per month, except that the cable customers must purchase basic cable first and then convert a rental fee for the monthly cost of HBO The monthly fee for HBO alone is $11 95 in our system for either the dishowner or the cable subscriber However, the cable setup has to pay $24 05 total in order to get HBO because HBO does not come without the basic cable So the dishowner pays significantly less in order to get that premium product If he shops around, he may find somebody who handles the descramblers and who is ready to sell him HBO for less than our $11 95 per month

Dennis over here, I understand, sells it for $10 45 We expect to have that kind of competition soon, Mr Chairman, in our cable television area, and that competition will keep prices low

Nobody is being deprived of anything with the technology that now exists Fairness to all, we believe, is being brought into this particular marketplace My colleague, Mr Edwards, will now discuss some of the customer confusion that surrounds the sale of scrambled signals to dishowners

Mr FLORIO Thank you very much Mr Edwards

STATEMENT OF DENNIS EDWARDS

Mr EDWARDS Mr Chairman, my name is Dennis Edwards I run the cable system in Roswell, NM We serve approximately 11,000 subscribers at this time I'd like to discuss some of the consumer confusion that surrounds scrambling and TVRO sales that we've encountered Much of this confusion throughout the country has been generated by TVRO dealers Fortunately enough, in my system, in my operation, we have not incurred that much confusion I think we have reputable dealers We're also starting negotiations or business dealings with these dealers in our town to ensure that TVRO owners are marketed fairly, properly, and with as much speed as possible to get the programming they want

Unfortunately, not all areas have been this way, and I'd like to cite a sister system of my corporation, located in Sherman, TX, that unfortunately is dealing with bad press almost weekly The one I'd like to cite was printed January 31, 1986, and quoting a TVRO dealer stating that in October 1984 President Reagan signed into law the Satellite Television Viewing Rights Act, which states that anyone may receive scrambled or unscrambled satellite programming without obligation to the programmer

These kinds of newspaper articles generate, No 1, phone calls to us as cable operators because of a misconception that we are the ones responsible for scrambling HBO and Cinemax For instance, we have gotten several phone calls since this has happened And their question is, Why are we doing that? We're fielding a lot of phone calls because of their questions

Last year HBO attempted to place a series of ads in satellite publications, explaining that HBO scrambling would happen and explaining how consumers could obtain the programming Several of these publications refused to run the ads And of course, that is their right But it's no wonder potential TVRO purchasers, because of that, have been confused It would seem to me that whatever can be done to protect prospective dish purchasers from confusion and deception ought to be done

Mr Richardson has drafted legislation that would address this problem It would require fair and honest disclosure where the consumer needs it most, and that's at the point of sale Of course, I feel that the technology of choice which the TVRO owners are seeing is cable programming It was created for cable television, and the programming is now being made available to TVRO owners on a comparable basis to that paid by cable subscribers

We applaud Mr Richardson for his recognition of this consumer problem and his efforts to provide a remedy My colleagues and I will be pleased to answer any questions you might have

Mr FLORIO Let me thank this panel And incidentally, just to the members of the audience, the people of New Mexico have a bit of an advantage over the people of New Jersey, in the sense that we have almost a legal tradition of having franchise areas for cable If you don't like your cable provider in an area, you have no choice Apparently in your State you have a situation of being able to go to two cable systems We don't have the luxury of that in my State, and many other States do not have the luxury of being able to switch off from one cable provider to another It's almost like a public utility situation You are stuck with whomever you have In some instances that's good because the provider is good But we have a number of documented situations in our State where it is not good because the provider is not as good as they could be

Let me ask the panel, first of all, what's the cost of this descrambler?

Mr STRONG It costs us $395, Mr Chairman, but we sell it higher in certain areas and somewhat lower in other areas But it's right in the range of $400

Mr FLORIO Let me ask a couple of basic questions, just to see if I understand what it is we're talking about, in terms of trying to arrive at some conclusions as to what reasonable costs would be,

not only for the descrambler, but also for service provided from cable stations

For example, in my State, in my area, my State is the most densely wired State in the Union We have lots of cable There's nobody, virtually nobody, who can't get cable And yet we have satellite dishes going up What is your explanation as to what the rationale is for the growth of satellite dishes in areas that obviously are not rural and obviously have access to cable? Is it merely the free rider argument that you're talking about, or are there other reasons that people would turn to satellite?

Mr BROOKS Well, people who turn to satellites are trying to find that something for nothing that everybody is looking for However, this is ultimately resolvable The pricing structure seems to be a key issue, and everyone we've been able to contact is interested in pricing equitably at or even below existing cable base

Mr Pfeiffer here, his company has already set policy pricing It might be interesting to have him comment on that

Mr PFEIFFER Thank you, Bill Mr Chairman, my testimony on this pricing is in the form of a rebuttal to the gentleman from Four Corners on his testimony, who stated that the cost of these signals to dishowners could be as high as $100 to $200 a month

My company, TCI, is the largest operating cable company in the United States today We operate eight systems in New Mexico We have already put into motion a marketing plan to offer a consortium of satellite services for as little as $6 a month It is a far cry from the $100 to $200 that was stated earlier

Right now we've signed with 12 cable programming satellite services, when they scramble, to have these offered So our technology and our marketing plan is in place before the scrambling takes place

Mr FLORIO How does that compare with the cost of services that are provided to cable subscribers? I thought I heard someone say $11 a month just for HBO Is that $6 a month for the whole range of services?

Mr PFEIFFER No, sir We are talking about two different types of programming We are talking about cable satellite programming, and then we are talking about pay programming, pay programming being HBO, Cinemax, Show Time, The Movie Channel, et cetera

In contrast, the satellite programming we are speaking of are services such as USA Network, ESPN, Nashville Network, et cetera We are offering a consortium of these channels for as little as $6 a month And right now we have signed or we expect to sign 20 In my franchise area we offer these services on our basic cable service for $13 25, so it is far less than what our cable subscribers are paying

We also, in this marketing plan, plan to offer HBO, Cinemax, Show Time, the pay services for $10 a month Now our customers pay $11 95 a month for this service So we recognize the fact that the cable subscribers, in their monthly fees, are also paying for the upkeep of the cable system The TVRO owners already have their equipment, they already have their system We are marketing this to them at a much lower rate than our customers are paying

Mr FLORIO So you say that the rural people that have satellite dishes that are not serviced by a cablewide system should not be—it seems to me equitable to say they should not be charged for their proportional share of the fixed cost of a cable network if the cable network is not there So that is the rationale of being able to provide a lower cost to rural satellite dish people than to the satellite dish person who is in a service area of a network, of a cable network, is that what you are saying?

Mr PFEIFFER That is correct

Mr FLORIO Is that an industrywide practice? Because in some instances, if that is not the case, dish operators could very legitimately point out that they are being charged—certainly, if they are being charged more than a cable subscriber, that is clearly inequitable In some respects, if they are being charged an equal amount to a cable subscriber and they are not in any way detracting from the revenue base that is needed to finace the costs of the wired system, that is in a sense an overcharge

Mr PFEIFFER This, I believe, is where the competition of the marketplace comes into effect There will be more than one place that this is available at You do not have to buy it from your cable company if you do not want to, and this is where competition keeps the marketplace going

Also, I would like to make a statement that the descrambler cost we have already mentioned is $395 In our marketing plan that TCI has put into effect, we are not selling the descrambler to the customer We will lease it to them They do not have to put $395 up front They do not have to pay a large deposit We will charge them $6 a month for that descrambler, and this is far less than the initial outlay of $395 that a customer would have to put to get it

Mr FLORIO Let me at this point yield to the gentleman from New Mexico

Mr RICHARDSON Thank you very much, Mr Chairman

Gentleman, I have an article in front of me that describes a variety of descramblers It is from an industrywide survey magazine, TV Satellite Video World Is it not confusing, can all of these descramblers be addressed through—let me see if I can pronouce this properly—MA-COM scrambling of HBO or Cinemax signals? Isn't this confusing, to have all these descramblers?

Mr BROOKS At this point in time, Mr Richardson, 23 cable programmers have committed to MA-COM We, as cable operators, are basically in the same boat We do not need four or five different types of descrambling schemes for the cable programmers

For instance, this one can handle 56 channels with the MA-COM version of scrambling For another cable programmer to do the technology and investment in changing that, number one, they get an uproar from the cable operators because they are going to have to also deal with different types of scrambling It would be like somebody making an 8-inch wheel, for instance, for a car They are not going to sell any of them

Mr RICHARDSON Are any major programmers committed to that descrambler?

Mr BROOKS All of the major programmers are committed to the MA-COM technology

Mr PFEIFFER I would like to point out an interesting fact Testimony has been brought up where this one descrambler will descramble all the channels that are scrambled Of course, the 23 that have been announced that will be scrambled, the customer can get all of those with one descrambler That is not the case with the cable operators The cable operators have to have one descrambler for every channel that we carry on our cable system So we, in fact, will be purchasing—and here is an example of another advertisement that is going out Why do we have to buy this descrambler, and the cable people get it free? We are purchasing one descrambler for every channel that is scrambled Right now in Hobbs, I have to purchase 14 descramblers That is a pretty big outlay just to get the services to our customers

Mr FLORIO Just a technical question How is the ownership of cable distributors and programmers divided? How does that work?

Mr BROOKS Mr Chairman, I think you had really better address that question to the programmers themselves, because we are just the distributor of their product You are talking about the ownership?

Mr FLORIO Yes Well, the reason I asked this is because some of the dish dealers are concerned that cable companies plan to totally monopolize the marketing of satellite-distributed programming That is the reason I am asking the question, and perhaps I should follow that up with Is this a legitimate fear?

Mr BROOKS Congressman, you know, I am a small, independent operator

Mr RICHARDSON My constituent is from Belen

Mr BROOKS Yes, sir We represent 6,000 of the 9,000 cable systems in this country That is why the chairman is asking about universal pricing Six thousand of us are totally independent We are independent in ideas, and I am sure our pricing may take as many as 6,000 different forms

If I may, Mr Chairman, you made reference to the programming sources and their control The folks, I understand, in the TVRO industry have contemplated and already proposed creating their own programming We welcome that Competition in the marketplace seems to me a very healthy thing This programming was created for the cable industry If they propose to create separate programming for themselves, it would be competition in the marketplace and very healthy for all of us

Mr RICHARDSON Do you have—or maybe this should be to the head of the association—subscription services for dish users? Do you plan to do that?

Mr EDWARDS As far as the scrambled services are concerned? I think most of those on a statewide—as individuals, corporations such as Jones and TCI have their own corporate guidelines and/or policies My particular company is much on the same line as John's We will charge only $10 45, slightly different But every cable system being owned by different people, they're going to have different pricing structures But you're not going to see anything beyond what a cable subscriber is paying, because he has to have basic service, and then comes additional programming

Mr RICHARDSON Getting to the deceptive advertising issue, and I think this certainly has been a hobbyhorse of mine, I've seen some

dish dealers use it, but I've also seen some cable operators put out advertising that says something like this All stations will scramble, et cetera, et cetera What kinds of efforts have been made in New Mexico, both at the State level or within your own association, to stop this kind of advertising, to curtail the misinformation that might get to the public? Maybe the head of the association or Dale, maybe you've got some input

Mr EDWARDS Well, at this point in time, as an association, we can't mandate what a particular advertisement has to be It would be, I think, a violation of antitrust laws if we told all cable operators, some being independent, some being owned by different corporations, if we requested them to do one particular type of advertising and none other That's usually left up to the operator himself And unfortunately, some operators have advertised that way I know of none in New Mexico that have taken that stand

Mr RICHARDSON But Dennis, you don't encourage that What steps have you taken to discourage that? It doesn't have to be a mandated law, but I suspect that there is information that you can channel that does not encourage this sort of thing

Mr EDWARDS Well, I believe in our discussions just as an association we have determined that we do not like misleading information in print because of what we feel is misrepresentation of an item But we certainly are not going to enforce or ask somebody to—I think I'm familiar with the advertising you're referring to I was sent some that asked me to run an ad that said Your dish is not going to be anything but a birdbath after January 31 But that's ridiculous I didn't run it

Mr PFEIFFER I received the same ad from a cable programmer, and I did not run that ad, either We, of course, want to get the information out as much as possible And as an association, we strive for that And as I stated, we can't control the individual operator But we certainly, as an association together in our meetings, can let them know what we, as entrepreneurs, expect to do

Mr RICHARDSON I guess I'd like to ask Dale Strong if you have any plans to expand the number of services to your customers How many stations are your customers able to view if, say, they subscribe to the top-of-the-line package? And do you have any plans to get into the satellite business, too?

Mr STRONG Our top-of-the-line package includes five different movie services We rarely sell that particular package There are 26 channels at the present time for us in our particular system, 21 of which a subscriber can get for about $13 a month The others are movie services, and they are necessarily priced higher We are almost certainly going to be investing considerable money in the system in the next year to expand the system to probably 42 channels

In regard to the dish business, I really could not say There are other United Cable Co operations, for instance, in Casper, WY, that are getting into the dish business as an incremental revenue for the system Casper happens to serve a rather large rural area surrounding Casper, so it makes more sense for Casper to get into that business than it probably does in Santa Fe But we're looking at it You know, we're looking at anything, as a good businessman must, to create, maintain, and expand a viable business

Mr PFEIFFER Yes Well, Mr Congressman, we at TCI do not plan on getting into the dish business But we, of course, recognize that there is a market out there, that people need to receive these signals And we intend in the interim, until a business in our area plans to distribute this, to make it available to our subscribers, to make it available to the people that have dishes in our area so they can receive this

Our total top-of-the-line package in Hobbs, 4 paid services and 21 satellite channels, would cost $48 a month And if we provided this same package to a dishowner, it would be somewhat less than that So like I stated earlier, the $100 to $200 a month fear is really just that, it's speculation and fear A lot of these marketing strategies are already in place

Mr RICHARDSON One last question, just a technical one, in terms of my bill I mentioned to Mr Greer—you heard him say he thought the bill would be improved if we added positive provisions that, one, decoders are available, and two, information on which stations are scrambled Would you support that addition in my bill?

Mr EDWARDS Yes, sir, definitely

Mr RICHARDSON I just wanted to get that in for the record I want to commend you for your statements I think we obviously have some differences, and I would encourage some dialog with the dish people I think this is always helpful I, for one, would like to thank you for the relationship you've had with my office, especially Mr Davenport, I think, on the two satellite dish issues We obviously disagree, but nonetheless I think it's important that we continue to work together Mr Chairman, I think my time is up

Mr FLORIO Thank you very much Let me just, with a parting word, also stress my appreciation to the witnesses on this panel But I also want to encourage them, as I encouraged the satellite dish distributors, to try to come to some position within the industry itself and then to try to facilitate some type of cooperative effort between the two industries for the benefit of the consuming public

These are not times when there is a lot of interest in governmental regulation in anything But if abuses occur in areas, that governmental regulation is certainly always there And, to a degree, we can get better and more effective responses to problems as a result of voluntary coordination, voluntary cooperation That's preferable But if that doesn't happen, then there is always the residual capability of having a higher degree of regulation and intrusion into the marketplace

So I just put that on the table as something that is always here that business people should be aware of I know you're sensitive to that, and I know you're going to try to do everything possible to resolve problems before we have to get to the next stage, whether it be legislation or regulatory systems being put into place But I want to express my appreciation for your presence here today Thank you very much

Mr STRONG Thank you, Mr Chairman

Mr RICHARDSON Mr Chairman, I would like to ask unanimous consent, if I could, if at the end of the last panel—there are a number of private citizens that would like to make a statement,

and, time permitting, if you would allow that at the conclusion of the last panel

Mr FLORIO At the conclusion of the last panel, if we have time—and I've informed you what our time constraints are—we would be pleased to hear very briefly from some people And if we do not have time—and even if we do have time and there are other people who want to make statements, the record of this congressional hearing will be kept open for 2 weeks so that individuals who want to submit written statements to be included in and made an official part of the Congressional Record will be authorized to do so Gentlemen, thank you very much

We now have our next panel of witnesses, which is made up of Mr Joseph Carriere, of Caprock Telecasting, of Roswell, NM, Max Sklower, of KOAT-TV, Albuquerque, NM, Mr Donald Wear, vice president of Policy, Columbia Broadcasting System, New York, NY, and Mr Jerry Danziger, general manager of KOB-TV, NBC Affiliate, Albuquerque, NM

Gentlemen, we welcome you to our committee Mr Carriere, we're very pleased to hear from you I hope I pronounced your name correctly

STATEMENTS OF JOSEPH CARRIERE, PRESIDENT, CAPROCK TELECASTING; MAX SKLOWER, GENERAL MANAGER, KOAT-TV, ALBUQUERQUE, DONALD WEAR, VICE PRESIDENT OF POLICY, COLUMBIA BROADCASTING SYSTEM, AND JERRY DANZIGER, KOB-TV, ALBUQUERQUE

Mr CARRIERE Yes, it's close enough

Mr FLORIO Please feel free to proceed

Mr CARRIERE Mr Chairman, Congressman Richardson, thank you for the opportunity to be here today I'm Joe Carriere, president of Caprock Telecasting, a New Mexico corporation We have KBIM-TV, a CBS affiliate in Roswell, NM, and KCBD-TV, an NBC affiliate in Lubbock, TX, both small markets

I am immediate past chairman of the CBS Affiliate Advisory Board, president-elect of New Mexico Broadcasters, and director of the Association of Maximum Telecasters Occasionally I get home to visit my family

Recently the CBS Television Network Affiliate Association and the CBS Television Network announced the formation of a task force to examine ways to extend the network/affiliate service to as many homes now unable to receive a CBS network affiliate as possible, while preserving the current network/affiliate distribution system I have agreed to serve on the task force

I am truly concerned about the continuance of the affiliate/network signal transmission as it has existed for the past 40 years Historically, landlines have been the vehicles by which we have received and transmitted privileged signals, privileged, of necessity, for program continuity and congruity affording the appropriate program at the appropriate hour for each time zone All that has now changed are the delivery systems themselves, from landlines to satellite transmissions

Not only are these transmissions more economical for all concerned, they have fewer interruptions and offer an improved pic-

ture quality I ask you to join with us in continuing to maintain the confidentiality of these transmissions and, in effect, the integrity and localism of the affiliate stations

I fully realize that most discussions of scrambling will be concerned with HBO, Cinemax, sports, and the exotic and/or erotic programming This is frankly not my concern

I care very much about network signals being transmitted across the country to three or four time zones daily, in addition to special news feeds, promotionals, and program materials and all those transmissions we and our network deem necessary to maintain an affiliate/network business relationship which ultimately, in proper format, is transmitted to our viewers

In order to continue this relationship, it is vital that we be allowed to scramble network signals so that the local stations can gather, assemble, and transmit daily programming that is pertinent and meaningful to its audience

Without this opportunity, the viewing public will be confused, the local stations will be bypassed, and the American system of telecasting as we now know it will be seriously damaged to the point of no recovery Consider your communities without a local television voice

Although this scenario may seem extreme, I am convinced that network affiliates must be encouraged to continue to program for their communities, network as well as local programming, in the proper format

Network affiliates should not and need not be involved in any discussion or decision concerning scrambling as related to dish-owners and pay services If, however, the public whom we serve are led to believe that their free network signals are to be available in a nonscrambled mode by other than network affiliates, then I offer for your consideration that this is a misconception that should be corrected

I urge Congressman Richardson to introduce this bill, the language of which I've seen, dated February 5, in a discussion draft Gentlemen, I thank you for the opportunity to speak to you

[The prepared statement of Mr Carriere follows]

CAPROCK TELECASTING INC.

Box 910 Roswell New Mexico 88201 505/622-2120

I'm Joe Carriere, President of Caprock Telecasting (KBIM-TV, Roswell, NM, CBS and KCBD-TV, Lubbock, TX, NBC), Immediate Past Chairman of the CBS Affiliate Advisory Board, President Elect of NM Broadcasters and Director of the Association of Maximum Telecasters

Recently the CBS Television Network Affiliate Association and the CBS Television Network announced the formation of a Task Force to examine ways to extend the network/affiliate service to as many homes now unable to receive a CBS Network Affiliate as possible, while preserving the current network/affiliate distribution system I have agreed to serve as a member

Recently the issue of scrambling of television signals has come up for discussion in the Congress of the United States in relation to advertising practices in the satellite dish industry In my estimation this emotional issue will be blown out of proportion as the satellite dish distributors and owners, the cable TV operators and our noble friends, the press, dramatize these events

At present there are 99% of the population who can receive network affiliate signals in their homes This leaves approximately 400,000 potential viewers who may or may not have this capability I'm convinced that if these people were visited by television stations engineers the number of non-viewers would decrease significantly as sets would be properly tuned and antennas properly aligned and attached The affiliates and the network have joined forces to continue to find ways to bring our signals to the remainder of these people

I am truly concerned about the continuance of the affiliate/network signal transmissions as it has existed for the past forty years Historically land lines have been the vehicles by which we have received and transmitted privileged signals Priveleged, of necessity for program continuity and congruity affording the appropriate program at the appropriate hour for each time zone All that has now changed is the delivery systems themselves, from land lines to satellite transmissions Not only are these transmissions more economical for all concerned, they have fewer interruptions and offer an improved picture quality I ask you to join with us in continuing to maintain the confidentiality of these transmissions and in effect the integrity and localism of the affiliate stations

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Network affiliates should not and need not be involved in any discussion or decision concerning scrambling as related to dish owners and pay services If however, the public whom we serve are led to believe that their free network signals are to be available in a non-scrambled mode by other than network affiliates then I offer for your consideration that this is a misrepresentation and should be corrected

We must be allowed to continue to scramble our signals for transmission in our local communities for the above stated reasons

Respectfully submitted,

Joseph A Carriere
President
Caprock Telecasting, Inc

JAC/aj

Mr FLORIO Thank you very much Mr Sklower

STATEMENT OF MAX SKLOWER

Mr SKLOWER Thank you, Congressman I presented some copies of my testimony, and I would like to call your attention to the fact that on page 2, the second paragraph from the bottom, I made a correction, two words

My name is Max Sklower, vice president and general manager of KOAT-TV in Albuquerque, NM I have been the general manager of KOAT-TV for 28 years

Before I proceed further, I would like to say that I read and I heard Joe Carriere's testimony, and I agree with his testimony 100 percent Some of what I say will duplicate what he says

In regard to home satellite dishes, I can understand why many potential viewers of television programs may have wanted a satellite dish instead of subscribing to cable TV

However, it has always been apparent to me that the programmers whose signals were up on satellites would want to eventually protect their assets Remember, the only asset a programmer has is his programs He has either produced these programs himself or purchased the programs at considerable expense

Some programmers protect their asset by selling advertising on their programming In this case, many of these programmers wish to obtain the widest possible audience

Other programmers are strictly pay-for-view programmers, such as HBO and the Movie Channel Since these programmers don't sell advertising, they can only exist if every viewer pays a price to view the programs they have either produced or purchased

There are other hybrid programmers that sell advertising, but they also can receive dollars from cable operators Some of these are ESPN Sports Network, CNN Cable News Network, and USA Network, which is the old Madison Square Garden Sports Network These people sell advertising, but they also charge the cable operators, who in turn charge the subscribers

Therefore, as I said earlier, it has always been apparent to me that at some point in time a number of important programmers would scramble their pictures

I think that anyone interested in purchasing a home satellite dish should take it upon himself or herself to carefully determine what programs will be scrambled And if they are scrambled, how much money will they, the home user, have to pay to unscramble them?

KOAT-TV has made a special effort over the years to see to it that all of the viewers in our vast coverage area, which is 160,000 square miles, have access to an off-the-air picture To accomplish this, KOAT has erected a number of translator and booster stations wherever FCC rules permitted We have also assisted many communities with financial aid and/or technical aid for their own translator associations Currently there are 82 translators carrying KOAT-TV's picture through a four-State area Of these, 14 are owned by KOAT-TV

In addition, KOAT has applied for a construction permit to operate a high-powered satellite station covering the southwest part of

the State from a mountaintop near Silver City This station should go into operation this year KOAT-TV is also carried by 49 cable systems throughout our four-State coverage area

We are constantly working on ways to legally serve as much of the State as possible This has taken a huge investment in dollars and manpower

To our knowledge, there are only a few people who are not serviced with a direct signal from KOAT-TV We have tried to assist those who have contacted us who are not getting a good picture, but they are a very low percent, I would guess less than 1 percent Our policy, incidentally, is that anybody who doesn't get a good picture, we certainly talk to them And we've sent engineers out to areas where they say they are not getting a good picture, and we are very interested But we have heard from very few people who are not getting an off-the-air picture

Also, there are certain areas that we cannot legally cover with translators because they are in the direct viewing area of another ABC affiliate who has protection in his franchise area However, in those areas the ABC signal is being furnished by off-the-air, cable, or translator signals produced by that particular ABC affiliate

It is, therefore, not in our interest to have a home satellite user intercept the ABC network signal and bypass our programs because we can only exist if we have circulation which is viewed from our station We make our money and survive by selling advertising time to advertisers who want to reach into as many homes as possible with their advertising messages

So to protect our franchise, ABC will be scrambling their satellite pictures which they send out to their affiliates Joe Carriere covered that quite well

I won't at this time, unless asked, say what a network affiliate is, because I think it is generally understood what is a network affiliate, what is an independent station, and what is a network-owned station

I think this basically explains the way most TV station owners, managers, and operators feel They have no quarrel with people who want to purchase dishes to receive a variety of other programs, but not network programs

However, as producers of programming, we can sympathize with other producers who rely on pay to view and various forms of pay to view, including cable companies, who do not wish their produce received for free

We also feel—I'm just about through We also feel that a potential purchaser of a satellite dish should be aware of all of these ramifications I have never been a big believer in the Government protecting everyone against themselves and everyone else On the other hand, I am a big believer in truth in advertising I feel that an advertiser must answer all questions truthfully and not misrepresent their products

To the end of educating the public, KOAT has put on several news programs and news reports telling potential dishowners about the forthcoming scrambling activity We intend to put on more programs of this nature, including some question-and-answer type programs, if we see that this issue becomes of further interest Thank you very much for allowing me to testify

Mr FLORIO Thank you very much Mr Wear

STATEMENT OF DONALD WEAR

Mr WEAR Thank you, Mr Chairman, Mr Richardson My name is Don Wear, vice president of policy for the CBS Broadcasting Group I'd like to keep my remarks very brief because I think the affiliate perspective is the most important one and to reserve as much time for your questions as possible

We very strongly support the intention of the bill Under the terms of the Communications Act, network transmissions to affiliates are private transmissions and protected from interception or other unauthorized use by the Communications Act And we think it only fair that the prospective purchaser of a dish be made aware of that so that they can make an informed decision But you can't deal with that issue without, obviously, touching the overall issue of scrambling, and I'd like to just make two very quick points

TV networks are scrambling their signals, not out of some mean-spirited desire to deprive people of the opportunity to receive our services——

Mr RICHARDSON Excuse me, Mr Wear Can everybody in the back hear him?

Mr WEAR Sorry We do support your bill because we think it's only fair to the consumer and possible purchasers of the dish to understand that the Communications Act treats and protects the network transmissions as private transmissions

On the issue of scrambling, we've decided to scramble our signal, not out of some mean-spirited desire to deprive people of the ability to receive the CBS network signal We want as many people to watch CBS as possible, but we think it's very important that they do that through the structure of the network/affiliate relationship, because we are a composite of national and local services, and that's the strength of commercial broadcasting in the United States

So to that end, as Mr Carriere pointed out, we formed a task force whose mission is to try to identify complaints from people who can't receive an affiliate signal or don't receive an adequate one, to undertake ways in which the coverage of our signals can be strengthened and extended through transmitter-repeater stations, through working with the industry to improve transmission technology and receiver technology

It's also important to bear in mind the distinction between network service and cable in considering the scrambling issue As I said, we're not a pure national service, directed toward viewers on a subscription basis The fundamental predicate of our business is localism and the affiliate station There are services that they can provide and we can't We provide a national component to that, but it is the local service that is most important and should be protected Thank you

Mr FLORIO Thank you very much Mr Danziger

STATEMENT OF JERRY DANZIGER

Mr DANZIGER Thank you, Mr Chairman and Congressman Richardson My name is Jerry Danziger, and I'm vice president

and general manager of KOB-TV, NBC affiliate in Albuquerque, and KOBF-TV, Farmington, and KOBR-TV in Roswell Our parent company is Hubbard Broadcasting, located in St Paul, MN I am not an engineer, and I may not be able to answer any technical questions you might have, but I'm speaking to you today as representing Hubbard Broadcasting

Hubbard Broadcasting has made a substantial investment by purchasing two transponders on RCA's K-2 satellite In addition, they also have an option to purchase two additional transponders on the same satellite K-2 was placed in orbit in the latter part of 1985 RCA's K-2 broadcasts in the K band, unlike the C band that most satellites are currently sending out signals that are in orbit today I believe that most homeowners have C band dishes in their backyards, and C band, I understand, does not pick up the K signal K band is a newer technology that can be more powerful, and it can be received on a smaller dish Hubbard Broadcasting is proposing to use their channel to offer broadcast stations first run, made-for-television programming

In addition, they will use the same transponder to send high-speed data from point to point Hubbard plans to encrypt this signal using a B mac format, which I understand is a scientific Atlantic process In order to have these transponders be financially successful, they must be able to sell time for data transmission and they must be encrypted You cannot expect anyone to send confidential data over a circuit that is not secured and protected from competition

In addition, they need the ability to send the programs from one station to another and make sure that it is an exclusive feed For example, KOB may want a story from Boston, MA We would contract with WCVB, a television station in Boston, to uplink from their facility to a satellite And because the signal in encrypted, only KOB could decode it and receive it No other station in the country could pirate it, and it would remain our exclusive story

With encryption, Hubbard could sell to a national advertiser that has the need to put different tags at the end of the commercials Only with encrypted signals can each station receive their message, only Scrambling or encryption is a must for those that invest in owning transponders in order for them to recover their investment and show a profit Thank you very much

Mr FLORIO Let me thank you very much And Mr Danziger, I want to express my particular thanks to you because your last point was really very instructive for me to start understanding what the problem is I can understand that last point that you've made, that you've got the network feed coming in and it comes in to the local affiliate, and the local affiliate wants to have advertising from Jones Hardware Store in town And if someone is watching the network feed on the television, they are not watching your affiliate version of the feed with the local subscriber Am I correct?

Mr DANZIGER Yes

Mr FLORIO So I understand that Because, quite frankly, prior to that, I wasn't sure what the problem was Because if you're talking about seeing the same thing, your advertisers are being seen by people in the same area

Let me ask a question with regard to the coverage rate, though Now Mr Sklower, I understand that you have the maximum coverage in the State from your affiliate, is that right?

Mr SKLOWER Well, we have a wide circulation, and so does Mr Danziger's station, and I know he has the three stations that he mentioned

Mr FLORIO Are there people in the State of New Mexico that can't get your affiliate's signal and people who can't get your affiliate's signal and people who can't get your affiliate's signal?

Mr SKLOWER I would like to ask anybody in this room right now to stand up that can't get our signal

Mr FLORIO I see hands being raised

Mr SKLOWER Where do you live?

A VOICE Two miles from Albuquerque, right behind your transmitter

Mr SKLOWER I've never heard from these people before today

Mr FLORIO First of all, let me continue control over this hearing More importantly, let's assume there are people in the State that can't get your signals Don't you, in a sense—and I'm particularly talking with regard to people from the networks—don't you have some interest in trying to help them get your signal?

Mr SKLOWER We have responded in the past to everybody who has contacted us, and we've tried to find ways to get them our signal One of the problems is that the FCC rules do not permit us to put up enough booster stations sometimes because of conflicting frequencies

Mr FLORIO The frequency situation means that they would get somebody else's affiliate So theoretically—I'm sorry, you're the CBS affiliate?

Mr SKLOWER ABC

Mr FLORIO ABC If your signal can't be boosted because of concerns about another ABC affiliate, theoretically that means those people would get the other ABC affiliate, doesn't it?

Mr SKLOWER That's not the case with these people who mentioned that they are living close to Albuquerque, because the mountains are blocking their house We could help these people if we were allowed to put certain translators in, but the FCC right now is bogged down with translator applications It's 3 years now to get a translator permit So that's an interesting problem We always try to help, but this is the first I've heard from these people

Mr FLORIO Mr Wear

Mr WEAR Mr Chairman, that is precisely why at least CBS affiliates have formed this task force We would like to be able to get every person who wants to see the CBS signal We would respond in the first instance to complaints CBS would send someone out to see if there's a new antenna configuration or something that can be done

But we want to go beyond that We want to address the situation that Max was talking about, about the backlog of translator-repeater applications at the FCC We want to look to ways we can strengthen the signal so we can fill in these pockets of bad reception or extend the coverage areas And it's only when we have exhausted those approaches to maintain the network affiliate, the

over-the-air structure, that we think the satellite receiving problem ought to be addressed But it's incumbent upon us, I think, to work first within the existing structure to see if it can be improved and maximized

Mr FLORIO Is there technologically a way that, after you exhaust all your efforts to provide these people with a signal and you can't do it for whatever reason, is there technologically a way—you're not thinking about getting into the descrambling business, are you?

Mr WEAR No, not at this point, but we're prepared at the end of this road to address that question But we want to go down the road first to make sure that we have extended the terrestrial system as far as technologically possible

Mr FLORIO The reason I think that is certainly something you will do is because, in my opinion, that is in your interest

Mr WEAR Absolutely

Mr FLORIO I've heard the cable people here make their point, and I've heard that it is not in their financial interest to allow satellites, necessarily But it is in your financial interest to allow satellite use if there is no other option if it enhances your viewing audience So I'm a little more confident that at some point you will come to the conclusion that it is in your interest to allow satellite use if there is no other option

Mr CARRIERE I don't think we're ready to go that far yet, but we need to certainly investigate it I'd like to offer two points for your consideration and hopefully clarification

Max's station does have the largest circulation in the state I live in the southeastern part of the State We have competing CBS stations from Albuquerque, Amarillo, El Paso, Lubbock and Odessa There is no lack of CBS signal in the State of New Mexico We've had no comments and letters at all to that effect in our part of the State And if we do, we will go to the individual viewer and make every effort we can Sometimes it's a cable problem, but just as often it's a problem with the antenna, the tuning of the set

The second point I'd like to make for clarification as to the seriousness of the situation, if the signal that CBS sends to my station—now remember, they're sending to four different time zones daily We are a bastard time zone We have no feed Some of us must delay at our own expense, and some of us must choose to go live We have to take that signal, insert commercials and provide room for local newsbreaks in order to put the station on the air for the Mountain Time Zone And if the local station is not allowed to make these contributions to the network signal, then you have a CBS network that has exactly four licenses and none of them in the southwest

Mr FLORIO If this congressional hearing serves no other purpose, it has obviously got you a little more aware that there are some problems, and that's valuable And I'm sure Mr Richardson's staff people will be pleased to talk with you after the hearing is over, and the audience will want to get your respective names and addresses and communicate with you with regard to their specific problems

Mr CARRIERE We encourage that, sir

Mr FLORIO Thank you Mr Richardson

Mr RICHARDSON Thank you Maybe I should ask, for the record, if any of the network affiliates have any statistics for the number of New Mexicans that, in your statistics, don't receive a network signal Are there any?

Mr CARRIERE There are none that we know of We're looking at this task force that we've formed It's about 30 days old now We'll be working toward that aim

Mr WEAR Congressman, you can approach it in two ways, and we are One is on individual viewer complaints If someone writes and says that they can't receive the signal, that's the best way for us to know about it and deal with it

Also, as an abstract matter, we're always taking State-by-State breakdowns of station coverage areas, cable system coverage areas, translator-repeater coverage areas, and trying to identify what are known in the terminology of our business as white areas That is an area that is not served by an off-the-air signal, by a cable system or by a repeater It is our plan to then go to the FCC to see if we can't get some kind of translator-repeater or other assignment to extend the signal over that area I think that in many cases we'll be very successful

Mr SKLOWER I have one final statement I have to leave very soon, but I invite all the people here who can't get our signal to write to me or call me collect, and I'll certainly try to work with them That's always been our policy, and I would stay today, but I have an appointment

Mr RICHARDSON I want to thank you for that, Mr Sklower I think you have been extremely responsive, at least with this committee and with me By the number of people that stood up here and said that they weren't receiving your signal, I'm also getting a little worried, because a neighbor of mine, a soon-to-be neighbor from Tesuque, stood up And I plan to move there, and I'm going to be in bad shape if I can't get anything myself Mr Sklower, do you have to leave right now?

Mr SKLOWER Yes

Mr RICHARDSON Let me just ask this question, and hopefully you and the others can address it Should the Earth station viewer, not the dish dealer, the dish installer, be concerned about a possible future antitrust situation? Here we've been encouraging you, the cable operators, the dish owners, the networks, to work closer together Should the guy that owns his station be worried about a possible antitrust problem in the future if you guys get too close together? And that is the cable operators, the networks and the dish dealers

I'm thinking of a person that is out there who has paid $2,000 for their dish and they've got all these expectations and there's such technology appearing in the future and so many promises made Is that person—should they worry?

Mr SKLOWER Most of the people that were standing up I would guess are not even in the range of cable, so I don't see where they have to worry about broadcasters and cable

Also, I can tell you that the broadcasters and cable companies are at odds most of the time We are not crazy about the fact that cables are offering a hundred different channels, because that waters down our viewing So we cooperate with the cables, but

they're not helping us a whole heck of a lot because 90 percent of the time the people that are getting the cable could have gotten our signal without the cable So you know, the cables serve a purpose We don't have anything against them, but they're not really helping us So I don't think you'll see us in bed with the cable people too often

Mr WEAR Mr Richardson, I think the inexorable trend of our business is that it is competitive now and it is getting increasingly competitive And the idea of some kind of conspiracy to act in concert to divide up our markets or deprive people of alternatives to particular services is just not—it's impractical The technology and the prospects of our business are moving in such a way to the proliferation of services and not the detraction

Mr RICHARDSON That would lead me—and this is for the chairman, if you have to leave That proliferation of services, are there any statistics? I think Joe Carriere may be the one that, as I understand it in your area, you've got a lot of dishes, you've got cable, you've got the networks Are there any statistics that you have that your viewing base and, i e , your advertising revenues, are eroding, or is there any trend?

Mr CARRIERE Not to any significant degree And I might quote Paul Bortz, of Bortz and Associates out of Denver, CO, who's done several studies, and he's a recognized pundit for the industry He seems to be correct in his appraisal of what's going to happen It's a very advantageous position to be in

The original estimates were that network viewing would be only 70 percent by 1990 We find now that he's corrected his course, along with David Poltrack, who is a vice president of research for CBS And now we're looking at in the neighborhood of 75 percent of that viewing We don't see any significant change It hasn't happened yet, but that doesn't mean it can't The competition will always be there

Mr RICHARDSON What about the others?

Mr DANZIGER I was just going to say that the number of households that probably cannot receive any television in the United States—Hubbard Broadcasting is the license holder of a construction permit for a direct broadcast satellite, and they've done some extensive research, and it's a pragmatic organization And I believe they've found about 2 million households in the United States that cannot receive any television whatsoever They've located such areas where there is no TV reception, off-the-air, that is So that might help to answer your question as to how many people cannot get television They cannot get network, cable, anything

Mr SKLOWER I'll make one statement You mentioned if this proliferation of signals, cables, other stations and everything has hurt our business The way it hurts our business more than anything is that the producers of the programs that supply us now have all these people bidding for the product So when Jerry and I go to try to buy a show like Wheel of Fortune or something like that and everybody else is bidding for it, our cost of business has gone up

Mr RICHARDSON I think I've heard everybody say that you're enthusiastically in support of my disclosure bill, is that correct?

Mr WEAR Yes

Mr DANZIGER Yes
Mr SKLOWER Yes
Mr CARRIERE Yes
Mr RICHARDSON Do you have a position on the two other satellite viewing rights bills, any personal position or official position on the part of your business, the moratorium bill and the viewer rights bill? Do any of you wish to venture them perhaps as individuals?
Mr SKLOWER I agree with your bills I'm slightly nervous about the 2-year moratorium I think it's a little unfair to the people who own the rights If I were a movie producer, or an actor, or somebody like that, I would have been smarting for many years from people stealing my product But if it's going to take 2 years, I'm not that nervous about it
Mr WEAR We oppose the idea of a moratorium for scrambling the network services We think that there's every reason in the world for us to try to protect the privacy of our transmissions now But as I said, at the same time working to make sure that our services are available, as well, we think that that can be addressed in another way other than placing a moratorium on scrambling
Mr RICHARDSON Jerry
Mr DANZIGER One final word, based on network rates and how they sell their time I was at A C Nielsen Co about a month ago—that's the people who do surveys—and found diaries that were filled out by the satellite owners I questioned the people at the Nielsen Company as to who gets credit for the viewing, and they said nobody That means the networks are losing those viewers in the overall numbers game, which means that they will, next time around, be selling their time for possibly less dollars than they did a year ago because of erosion And if they're not getting credit for the viewing, then it's costing those networks
Mr WEAR One final comment It's important to bear in mind that what we're talking about are discrete kinds of services, each with their own character to the American people Network television is one kind of service, based on localism Cable basic service is one kind, premium services, and in the future we may have five different broadcasting services But I don't think it's right to try to make one service with a particular character into another service It's important to maintain those distinctions
Mr CARRIERE Very briefly, if I may, the signal that is coming out from CBS that is picked up will be scrambled shortly This is bare bones It doesn't include any local elements whatsoever, and it bypasses completely the local television stations It bypasses the local news, the local weather, the local information and offers no public service at all
Mr FLORIO Let me express my appreciation to this panel for your particularly interesting insight into a dimension of this whole question that is not yet completely understood, I don't think, so that your testimony has been very helpful to us Thank you very much
We now proceed to the last panel of witnesses This is made up of Mr Robert Suzenski, of Santa Fe, NM, John Ramsey, of Los Alamos, NM, David Steele, director, Construction Industries New Mexico Regulation and Licensing Department, and Mr Stuart

Bluestone, director of the Consumer Protection and Economic Crimes Division of the Office of the Attorney General of the State of New Mexico

Mr RICHARDSON Mr Chairman, I would like to ask unanimous consent that following this—once again, time permitting—that if there are any individuals that would like to make a brief statement, I will be sending around a yellow pad And if you'd like to make a brief statement, sign that And, time permitting, we will do that Otherwise, I think, as the chairman mentioned, the record will be open for 10 days and whatever statement you make will be part of the Congressional Record

Mr FLORIO Mr Suzenski

STATEMENTS OF ROBERT SUZENSKI, SANTA FE, NM, JOHN W. RAMSEY, LOS ALAMOS, NM, STUART M. BLUESTONE, ON BEHALF OF NEW MEXICO ATTORNEY GENERAL, AND DAVID STEELE, DIRECTOR, CONSTRUCTION INDUSTRIES DIVISION, NEW MEXICO REGULATION AND LICENSING DEPARTMENT

Mr SUZENSKI Thank you, Mr Chairman, and thank you for the opportunity of being able to address you today as a consumer As a consumer, I'm solely interested in receiving a good product at a fair price, nothing more I am, as our satellite dealers are, I am sure, not a pirate We are people who are willing to pay for the services offered at a fair price

The industry has, in my opinion, gotten a black eye in the last few years that it does not deserve I think the adoption of the bill that Mr Richardson has proposed would have the opposite of its intended effect I think the industry would be given another black eye that it does not deserve and that the press would pick up on this and say, "The industry has gotten a slap on the back again, and we're going to crack down on them "

My input today can only come as a consumer I have been a consumer of cable services, and I have recently purchased a dish The reason I purchased a dish was very simple I did not get the service from the local cable company, and I am in their franchise area

In 1977, when I purchased my home in the Bellamah Subdivision, right off Rodeo Road, it took 1 to 2 years to get this service When I got it, it was not good The same thing happened to me when I moved in 1985 to a new home I was in the franchise area I got the runaround again from the cable company and did not get the service I needed

I think the problems of the urban satellite dish users should also be addressed by this committee That is that they are not always being served by the local cable company And the reason for that I think is at least clear to me It is my opinion that the reason is that there's no competition There simply is nowhere else to turn When I could not get the service, I couldn't get it anywhere else And that's the point where we are today, and I think the same thing is happening again

HBO is only distributing through the local cable company As for the network programs, I'm willing to pay them, as well I'll pay them the 15 cents that, for instance, I think ESPN charges each local cable company per subscriber on a per-month basis I'll pay

the networks that, as well as for ESPN and every other service available, but I don't want them cut off to me I don't think that's good for the American consumer, I don't think that's good for the public, and I don't think it's in the public interest

I thank you very much for being able to address you today and express my concerns as a consumer I really want to see the focus of this committee and of Congress to focus on effective competition to keep the prices down, make them fair and make all the programming that's there available My God, we've got the technology Now let's use it That's what we're in space for We're there to be able to use it

Just think what this would do if we could get enough satellites up there and start transmitting across the world One of the problems in the world itself is, we don't communicate We don't get together as a people around the world I see this as sort of an interim step to maybe, 20 years from now, my kids are maybe addressing a committee like this What are the possibilities then if the peoples of the world can communicate, if all of this communication can go on as unrestricted as possible, but of course at a fair price? And as a consumer, I'm more than willing to pay that price Thank you very much, Mr Chairman

Mr FLORIO Thank you very much Mr Ramsey

[The prepared statement of Mr Suzenski follows]

ROBERT SUZENSKI P C
ATTORNEYS AT LAW

SANTA FE NEW MEXICO 87502

February 13 1986

The Honorable James J Florio, Chairman
and the Honorable Members of the Sub committee
on Commerce Transportation and Tourism
Room H2 151 House Office Building Annex II
Third and D Streets, S W
U S House of Representatives
Washington, D C 20515

Re February 15 1986 Hearing on Advertising Practices
in the Satellite Dish Industry

STATEMENT OF ROBERT SUZENSKI, CONSUMER

As a consumer, I am interested in one thing a good product at a fair and competitive price The recent scrambling of satellite television signals by HBO and adverse publicity surrounding the scrambling issue has substantially impaired the satellite television industry I understand I am told that many small dealers have simply gone out of business, and that the sales of satellite dishes for many other dealers have come to a virtual standstill Needless to say, this lessens competition in the industry Lessened competition generally translates into higher prices and less services (programming) The proposed disclosure bill, although I am sure well intentioned, I believe would have the same effect thereby tending to increase the price and lessen the availability of programming to the consumer

More importantly, the proposed bill interjects additional issues and considerations into an already unsettled marketplace involving now, as it does the local cable television company as well as the satellite television dealers It is my belief that the enactment of the proposed disclosure legislation would put the satellite television dealer at a further competitive disadvantage especially with respect to the local cable television company In order to attempt to equalize the competitive effects of such a measure it would seem that similar disclosures should be required of the cable companies as well requiring them to disclose, among other things the programming services available the percentage that they offer, and the price charged for each service In smaller urban areas

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ATTORNEYS AT LAW

such as Santa Fe it would also seem appropriate to require the cable companies to further disclose the geographical availability of their services and their expansion plans with some degree of reliability and accuracy If there is to be disclosure, it would seem to be to the benefit of the consumer that it be required of "both sides "

The imposition of a disclosure requirement itself, almost necessarily implies to the consumer that there is something to hide, that the entire truth is not being told, or that all of the facts are not being presented and that all relevant information is not being disseminated to the consumer to make an informed choice The clear implication is that the entire story is not being told As a consumer, I fear a plethora of adverse publicity to add to that already directed against the fledgling satellite television industry in the event that a disclosure requirement were imposed upon satellite dish dealers Such an enactment may well be the straw that broke the camel's back for a number of dealers, forcing them out of business I am concerned that I may not then be able to get service for existing equipment

Until prices came down to a level where they were affordable for consumers, and satellite television got started, I simply had no idea as to the programming that was actually available to my local cable television company They certainly did not tell me In order to make an informed decision as a consumer, if there is to be a disclosure bill, I think that I would want to know from both entites competing for my business and have disclosed to me the program availability and costs As to the charge for scrambled services, I would also want to know what HBO and the other programmers are charging the distributor on a per subscriber basis

I interpreted the law passed a year or so ago to mean that all would have fair access to satellite television programming and transmissions One of my great concerns, is that this in fact not the case It is my understanding that HBO, for instance, charges the local cable company approximately $2 00 per subscriber per month, but that the local cable company will charge approximately $12 00 per month to the subscriber, whether or not the subscriber or the company has the investment in the equipment

I have had experience both with cable television and satellite television It seems to me that the availability of satellite dishes has finally injected some competition into the market place for the first time I cannot help but think that this will benefit the consuming public

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When I first came to Santa Fe in 1975, having previously lived in the Hartford, Connecticut area and in Miami, Los Angeles and in the San Francisco Bay area, my wife and I, as many people do, rented an apartment and subscribed to cable television As I recall, beyond the basic services at that time, we also received a couple of Los Angeles television stations that I understand, were transmitted over the ground by microwave repeater stations

We later purchased a home in 1977 in what is commonly known as the Bellemah sub division, being informed by the local cable television company that easements were provided and cable would be provided once the homes in our phase of the sub-division were constructed We had been rather loyal subscribers We were not happy with what ensued

To my best recollection, it took at least one year and perhaps two years for cable to be installed We waited patiently There was no competing service We had no choice The most distressing aspect of this was however, the attitude of the cable company We could never get a straight answer from them Despite what they told us in the beginning, they simply never got around to installing the cables They kept putting us off and telling us it would be a couple of months The months came by and went

We finally were hooked up To our dismay, the service was not very good There was now more programming but the price continued to increase I believe during the time that I had service from about 1979 to 1985 that the price for the services seemed to double In the meantime, the transmission was interrupted on numerous occasions, and there were periods of a day or so when we received nothing on the cable Needless to say, there was no abatement in price Moreover, when we called the cable company no one ever would take responsibility and tell us when service would be restored

The picture quality itself was another matter We had some seemingly minor but continual problems with both the video and audio transmissions On HBO for one thing, I can remember vividly a continual audio hum The cable people seemed entirely inattentive to these problems No one would even come out They just said it was our television set We had just spent over $1,000 00 for a state of the art Sony Console television I really don't think it was our television The problems were really minor but after awhile became quite aggravating We though of discontinuing the service, but there was no competing alternative

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We bought a new home and moved in in February, 1985 This was a couple of miles away from our old home and a little bit of a step up for us It is on the outskirts of the city limits toward I 25 Again, we were frustrated by the cable company's seeming inability to give us a straight answer as to when we could get service Under the circumstances, we thought we had been loyal subscribers and deserved better

When I was ready to move, I informed the cable company and they indicated that they intended to have the cable installed in my new sub division where my new home was located the next month and that I should simply keep the converter box so that they could hook it up at our new home They did not appear in March to do so, nor did I see them in April or May I finally returned my equipment at the end of May, 1985, only to be charged for the three months that I did not have service upon the threat of being turned over to the credit bureau In the meantime, we still did not have cable service in our new sub-division

I started to explore the alternatives as I received some information from advertisements that I had begun to see by satellite television dealers I spoke to a number of them in Albuquerque and Santa Fe They were all very helpful and honest about the scrambling issue

I called the cable company again to try to find out when the cable would be installed They still would not give me a straight answer or any indication whatsoever I spoke to a couple of my neighbors who were also trying to get service and, to my surprise, they were very angry as they said that the cable company had simply laughed at them. They were now also exploring the possibility of purchasing satellite dishes

I purchased my satellite dish toward the end of the summer (I believe this was in August, 1985) To my best recollection the cable company did not install the cable lines in our sub-division until almost the end of last year (1985) We received no advance notice and no one contacted us prior to the fact, despite our repeated calls to the office I believe that approximately six or seven households had already purchased satellite television dishes in our new sub division due, in part, I am sure, to the unavailability of cable television service

I want the sub committee to know, that, in my opinion, if anyone has misled me in this industry, it has been the cable company and not the satellite television dealers Every satellite television dealer that I spoke to prior to purchasing the system that I did informed me as honestly and completely as

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they could as to the scrambling issue Of course, I cannot speak on behalf of other consumers It could certainly be true that I got the right answers because I asked the right questions I was fairly well informed and started to read the satellite television magazines and investigate a number of the facts and details on my own before I even went to look at a satellite television system

If any one has misled me at any time and I am not saying they have, it was the local cable television company, not my satellite television dealer Perhaps they had their own internal business problems, but that is what competition is designed to improve upon and to improve service as well as the product It is my opinion that if disclosure is required, the cable company should also be required to disclose to the consumer what he is missing

The constituents with complaints about disclosure concerning satellite dish dealers would actually, in my opinion, not be well served by a bill which requires the disclosure contemplated on the part of only one aspect of those competing for part of the same market The bill at least in the short run, would have an anti competitive effect and would actually harm consumers

I further feel that the bill, itself, may cause other unwanted and unnecessary problems and troubles In this unsettled area of the law, who can say what disclosure about the facts of scrambling would be correct Query whether or not this simply would create an additional liability, where none existed before, for the satellite television dealers, in the event that what they disclosed proved to be inaccurate

I had understood the act passed one year or so ago to require fair access to scrambled programming at a reasonable price Where the consumer has the investment in the hardware and equipment and the price is the same to the consumer for the programming as that charged by the cable company, this does not seem to meet the requirements of the act It seems to me that the focus of any regulation at this point would be better directed at the programmers and cable television industry As a consumer, I am simply interested at not being restricted and at having available to me the widest and broadest range of programming I am more than happy to pay a reasonable price for it I am interested as a consumer in having the cost of programming regulated by open competition in a free market, free from anti competitive influences (such as cross ownership between table television operators and programmers) Anything that the subcommittee or congress, for that matter, could do to lessen anti competitive factors in the market place would, I think, serve the interests of the consuming public best

Disclosure is the obvious answer to the simple problem of lack of information Yet, the effect of such a requirement on only one of two competing businesses in the same or a similar market place in the context of an unsettled market, should be considered by the subcommittee and by congress Rather than advancing the interests of consumers, the practical effect of the bill in todays unsettled market might actually be further damage to satellite dish businesses and a lessening of competition, thereby harming rather than helping the consuming public

I thank you, Mr Chairman, for allowing me to express my views on these points and to appear at the scheduled hearing

Very truly yours,
ROBERT SUZENSKI
Robert Suzenski

STATEMENT OF JOHN RAMSEY

Mr RAMSEY Thank you, Mr Chairman, and good morning, Congressman Richardson My name is John Ramsey, from Los Alamos, NM

Some 4 years ago, I also subscribed to cable TV Over the ensuing 4 years, the rate crept up about $20 a month, without any appreciable increase in the quality of the service As a matter of fact, it deteriorated Last summer the advertisements that the satellite dish people were making sounded attractive to me, so we went ahead and bought one

The satellite dish TV people were totally above board They explained the situation as well as everybody knew it at that time and perhaps as well as we know it right now They were certainly very cooperative

Now of course we come to the problem of encoding In my opinion, radio transmissions are the same thing as TV transmissions They become a part of the public domain once they're in the air There's a long precedent here, I think Radio transmissions have been in existence for 65 years or so I believe that once that transmission is in the air, if I can capture it by whatever means are available, it's mine It's like sunshine and fresh air

If I can go down to TG&Y and buy a decoder for $25, I don't owe any accessorial charge to anybody I think, however, the matter of laws to perpetuate this sort of thing, to assess a cost on the reception of this particular type of service, generates a kind of a parasitic industry In other words, in the system between the transmitter and the receiver, somewhere there's a link that's collected from both ends, from the sponsor and from the recipient, from the subscriber And I think to assess a charge on this is creating an artificial market for a service that otherwise just wouldn't be necessary

Again, going back to the cable TV business, we had no choice We didn't have the opportunity of shopping around In Los Alamos—you may not be familiar with it, but Los Alamos Cable TV is the only game in town, previous testimony notwithstanding We did not have any choice there

I think laws to perpetuate this perhaps parasitic type of service would be resistant to progress And furthermore, I think they would be neither fair nor enforceable I think that would be the sort of thing that would lead us into the same type of mistake we made in the matter of Prohibition And my sentiments rest, of course, with what I would consider the benefits of the public weal I believe this is like free air, fresh air, and sunshine It should not be charged for

Thank you very much for allowing me this opportunity

Mr FLORIO Thank you very much Mr Bluestone, we'd be pleased to hear you

[The prepared statement of Mr Ramsey follows]

STATEMENT OF JOHN RAMSEY

Hearing of the Subcommittee on Commerce, Transportation and Tourism
February 15, 1986

In June, 1981 we subscribed to cable television in Los Alamos for approximately $24 00/month We immediately noticed duplication of programming Over the next four years the service deteriorated as the price steadily increased to nearly $50 00/month In June, 1985, after some consideration, we purchased a satellite dish

We believe that television transmissions, like radio transmissions, become part of the public domain If the sender has the right to encode these transmissions, the receiver has the right to unscramble them if he so chooses Laws to artificially support such a parasitic industry are neither fair nor enforceable

We were made aware of the fact that encoding was a possibility, and we have no complaint whatsoever with the satellite dish industry Our complaint is with legislation that would permit what we feel is the unlawful encoding of television satellite transmissions

Respectfully,

John W and Mary E Ramsey
1432 41st Street
Los Alamos, New Mexico 87544

STATEMENT OF STUART M. BLUESTONE

Mr BLUESTONE Thank you, Mr Chairman, Congressman Richardson

Mr FLORIO Will the subcommittee kindly come to order, so we can have the best hearing possible?

Mr BLUESTONE My name is Stuart Bluestone I'm appearing on behalf of New Mexico Attorney General Paul Bardacke in my capacity as director of the Attorney General's Consumer Protection and Economic Crimes Division It is my pleasure to accept your invitation to address Congressman Richardson's proposed draft bill to require satellite dish sellers to disclose certain material facts prior to sale I have a formal, written statement that I would like to submit for the record, pursuant to your instruction earlier, and I will try to simply summarize very briefly now three main points that I would like to try to make

The first point is simply that I believe this draft bill is very good I think it would provide consumer protection in an area that is ripe for considerable consumer confusion As the chairman said earlier this morning when he introduced this hearing, it is not the vast majority of this industry or any particular industry that creates the problems that necessitate legislation, but the few bad apples that are the ones that require certain legislative action to be instituted, and I believe that is the type of problem you have here We are concerned that consumers may not be fully advised of what they are getting into when they are purchasing these dishes, and then, subsequently, find out that certain stations, certain signals that they thought they could receive are being scrambled and that they could not then continue to receive them

As we understand it, the bill's purpose is simply to provide disclosure to consumers at the point of sale that they may face scrambling of transmission signals and that they may be required to purchase a decoder or pay a subscription fee in order to receive certain signals So we believe that the focus of the bill, the requirement to provide affirmative disclosures, is very good

Consumers are, of course, not without their legal remedies even today, but these remedies are very burdensome and they are after-the-fact types of remedies You can have an action, obviously, for breach of contract, breach of warranty, an action under our State unfair practices act and common law fraud or misrepresentation But you get into a swearing contest in court as to who said what to whom and when

With this bill or some similar type of disclosure bill, there wouldn't be an opportunity for that kind of dispute The requirements to disclose would be very clear and direct at the point of sale, and it would simply be a question of whether it occurred and was it in the contract It is a written disclosure that has to be provided So we applaud that effort, and we think it would be welcome in terms of consumer protection

The other two points that we would like to make are, very briefly, some modest suggestions that we would offer for you to consider as you are drafting the bill for introduction

The first is that we believe the language, the precise language that is included in the bill that should be placed in the contract

and, as the bill provides, in an announcement at the place of sale, we believe that language could even be a little bit more direct about the issue of scrambling that it is trying to address And we have some particular language that we would like you to consider inserting to address that issue

We think a few brief statements to this effect would be very helpful Some television programming transmitted by satellite is scrambled More programming may be scrambled in the future In order to view this programming, it may be necessary for you to purchase a decoding device and to pay a subscription fee for the scrambled station you want to see That would be all the additional language which we would suggest inserting at the outset of the disclosures that this bill already provides

The final point that we wanted to make is to suggest to you that there is an opportunity here to allow for private enforcement, so that private individuals can bring their own causes of action if disclosures are not provided The Federal Trade Commission is burdened, as you are well aware, with considerable problems that it is trying to address, and there are a number of areas in which the Federal Trade Commission and the Congress before it have deemed it appropriate for private consumers to have remedies available to them to serve, in effect, as private attorneys general to enforce their own claims and causes of action And we think a similar provision in this law would also assist consumers

We have also drafted some language to that effect It is included in the written testimony, and I need not read it again before you It is modeled after other statutes that Congress has enacted, and we think it would also be justified in this area of consumer protection

We thank you very much for inviting us to appear, and we'd be pleased to try to provide any additional information you may want as you pursue this issue We also thank you very much for coming here to Santa Fe for the hearing

Mr FLORIO Thank you Mr Steele

[The prepared statement of Mr Bluestone follows]

Attorney General of New Mexico

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STATEMENT ON BEHALF OF NEW MEXICO ATTORNEY GENERAL PAUL BARDACKE BY STUART M BLUESTONE, DIRECTOR OF THE ATTORNEY GENERAL'S CONSUMER PROTECTION AND ECONOMIC CRIMES DIVISION, BEFORE THE U S HOUSE OF REPRESENTATIVES SUBCOMMITTEE ON COMMERCE, TRANSPORTATION AND TOURISM CONCERNING A BILL TO REGULATE SATELLITE DISH INDUSTRY ADVERTISING

SANTA FE, NEW MEXICO

FEBRUARY 15, 1986

Mr Chairman and Members of the Committee

My name is Stuart M Bluestone I am appearing on behalf of New Mexico Attorney General Paul Bardacke, in my capacity as Director of the Attorney General's Consumer Protection and Economic Crimes Division It is my pleasure to welcome you to New Mexico and to address Congressman Richardson's bill to require satellite dish sellers to disclose certain material facts prior to sale

We believe the bill's purpose is sound It is designed to provide consumer protection in an area fraught with consumer confusion The bill should help prevent problems which occur when satellite dish salesmen make promises they cannot deliver, and consumers are frustrated with expensive satellite systems that fail to meet their expectations

As you know, the main problem this bill addresses is satellite television signal encryption or "scrambling " We understand that some satellite dish retailers have represented to consumers that "scrambling" cannot or will not ever occur More commonly, advertisements appear which represent to consumers that if they purchase a satellite dish, they will be able to receive all programming which is available on cable, and more, for a lower cost than that of cable T V

Whether consumers have a right to use satellite dishes to receive and view unencrypted cable signals in their own homes without paying the cable company has started to provoke litigation, and the issue is unclear to date [1] What is clear is that now that satellite dishes have given consumers the means to intercept cable signals and view them without paying the cable transmitters for their product -- i e , programming -- economic self-interest will lead an ever-increasing number of cable broadcasters to scramble their transmissions Simply stated, we cannot expect cable companies to spend money to produce programming and then give it away for free

HBO, the most popular cable service recently began scrambling its signals One cable movie station does so also, I understand, and others have announced plans to do likewise It seems only

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1 Multimedia Cabelvision v Starlink Communication, Civil Action No 83-1997 (D Kansas Feb 13, 1985)

reasonable to expect that the trend towards scrambling will continue and that more cable programming will be scrambled or otherwise transmitted in such a fashion as to prevent its interception by persons who have not paid to receive it

What does this mean for consumers? For one thing, it means that if they wish to use their satellite dishes to receive HBO and other "scrambled" cable services in the future, they will have to purchase a decoding device, for an additional cost of several hundred dollars, and pay each cable service a subscriber's fee to set up the decoder to enable it to unscramble the cable service's signals It also means that whatever merit comparisons between satellite dishes and cable television may have had in the past, the two systems are now quite different and are likely to be even more different in the future Consumers should know this before they buy, and that is precisely the problem Congressman Richardson's Bill seeks to address

Consumers are reportedly not always told the truth about scrambling and decoding On the contrary, reports have surfaced that consumers are sometimes misled either by direct misrepresentations, or more commonly, by misleading comparisons between cable and satellite systems They are induced to purchase satellite systems that can cost $1,000 to $2,500, in part because of the promise of perpetual free receipt of attractive cable signals After making their purchases consumers have to face the reality that a station's signal may be "scrambled" and will not be available to them at all, or may be available only by purchasing a decoding device and paying a subscriber's fee

The Congressman's bill should help stop that deception It seeks to require satellite dish retailers to disclose to consumers prior to the actual sale that satellite dish owners may be required to pay a fee for each satellite-transmitter cable service which they receive That is a very important protection for

consumers

Just how valuable this disclosure requirement really is can be seen by contrasting it with the remedies consumers currently have available to them At the present time, a New Mexico consumer who was misled to believe that he could receive HBO free of charge in perpetuity if he purchased a satellite dish, could bring an action against the seller under a variety of legal theories These include breach of contract, breach of warranty, violation of the State's Unfair Practices Act statute and common law fraud Under all of these theories, however, the consumer would have already suffered a loss and would then have to prevail in a "swearing match" in court before he or she could recover

Fortunately, this bill's disclosure provisions should greatly reduce the possibilities for confusion, misunderstanding and

fraud Moreover, proof of a violation would be a relatively simple matter The only real issue would be whether the sale documents contained the required disclosure Finally, it should be noted that the burden on sellers to comply with the bill's provisions is minimal Indeed, it is very similar to disclosures merchants already make under the Magnuson-Moss Warranty Act

The bill as presently drafted would be a real benefit to consumers We have some suggestions, however, which we believe would make the bill's protections even stronger and which would aid in its enforcement

The main issue the bill seeks to address is "scrambling " Its disclosure wording does not mention the word "scrambling," however, and the language is not as simple and direct as it should be We therefore suggest that the disclosure required by the bill contain some clear additional language which

explicitly deals with scrambling For example, we suggest the following

> "Some television programming transmitted by satellite is 'scrambled' More programming may be 'scrambled' in the future In order to view this programming, it may be necessary for you to purchase a decoding device and to pay a subscription fee for the 'scrambled' stations you want to see "

The bill as presently drafted commits enforcement to the Federal Trade Commission We believe the bill would be greatly strengthened by the addition of a private right of action The F T C does not have the resources to police every seller, but individual consumers armed with a private right of action, including a provision for the recovery of reasonable attorney fees, could both act as private attorneys general in enforcing

the law and vindicate their own rights at no cost to the government Such a provision, modeled after other attorneys fee provisions, could read as follows

> "A person who violates any requirement imposed by this act and any regulations promulgated under it will be liable in an amount equal to the actual damages sustained or $100 00, whichever is greater, and in the case of any successful action to enforce this liability, the costs of the action together with reasonable attorney fees as determined by the court Any person aggrieved by a violation of this act may bring a civil action pursuant to this section "

Even without these suggested changes, we believe this bill would be of significant value to consumers Its disclosure provisions should effectively prevent confusion, misunderstanding and

misrepresentation The bill should also accomplish its objectives without imposing any significant costs or burdens on the industry Most important, the bill should promote fair competition by sellers and informed purchase decisions by consumers We believe that its enactment would be extremely beneficial to both consumers and honest businessmen

I very much appreciate your time and consideration On behalf of Attorney General Paul Bardacke, our office will be pleased to try to provide whatever additional information you may want Thank you

STATEMENT OF DAVID STEELE

Mr STEELE Mr Chairman, Congressman Richardson, thank you for the invitation to participate here As earlier indicated, I'm the director for the construction industries licensing requirements for the State of New Mexico Seemingly, satellite dishes have raised a broad range of confusion, oftentimes with misguided or misled information being distributed

We have, as the licensing agency, looked at this for some time We're made up in the construction industries division of an LP gas division, a mechanical division, a construction division, and an electrical division In that scope, we are also the division represented by a nine-member panel, committee, that governs and helps us manage our industries

Along with that, we have an electrical/technical council, and members of that council are Mr Otis Beaty, Beaty Electric, Santa Fe, NM We have Mr A L Northeim, from B and G Electric, out of Farmington, NM Dave Hughes, of Hughes Electric, is our chairman, coming out of Santa Fe And Bob Uhl is a member of that committee, coming out of Albuquerque, and Mr Albert Scott, coming from Silver City I have with us also today our electrical bureau chief from our department, who serves as secretary of that committee

In light of what's happening in promulgating the dishes, I've asked the electrical bureau chief to schedule a meeting, as they did on January 31, with the technical advisory committee for a discussion related to the subject matter and seeking input and recommendations

The recommendations, which I have submitted to you, will be taken to our construction industries panel on March 7, and those recommendations are as follows For residential occupancy, single-family, in the installation of a TVRO dish, will not be required to have a contractor's license when such installations are installed in a single-family dwelling, utilizing one channel and one channel head and it does not require the use of 120 volts for tracking

The installation of electrical wiring utilizing 120 volts must be performed by the holder of an EE-98 license Installation of CATV and SMATV in multiple-family units, apartments, amusement areas, hotels, motels, offices and similar locations, a license will be required to perform this work, and this license classification is designated as an ES-6 and will be issued upon a successful passing of the ES-6 and business and law exams

Electrical work, as stated above, will require an EE-98 There's been some misunderstanding or at least some miscommunication about where people can obtain information for an ES-6 license People wanting to take an ES-6 examination may obtain study materials from the National Code Television Institute, P O Box 27277, Denver, CO, and that zip is 80277 Also, that telephone number is 303-761-8554 Upon approval by our construction industries committee, this policy will be enforced for all of our inspectors and political subdivisions

In summary, I'd like to say the installation of this equipment for strictly residential use, a license is not required Installers of this equipment in commercial or other than single-family residence oc-

cupancy shall obtain an ES–6 license And Mr Chairman, Congressman, I appreciate the opportunity to be here And thank you, Mr Chairman, for coming so far

Mr FLORIO Thank you very much I'd like to express my appreciation to this panel, as well And I think we really have seen a consensus over all four panels with regard to the merits of the legislation that Congressman Richardson and I will be introducing dealing with the basic question of fairness, fairness in advertising, in an effort to provide people with the information they need to make the decisions they have to make before they invest the substantial amount of money that they would be investing satellite dishes So I think that's very helpful

Mr Bluestone, I'm particularly appreciative of your offer to suggest to us some language to perhaps modify and refine the proposals that we are talking about introducing and, hopefully, having enacted into law So that's very helpful to us

Mr Richardson

Mr RICHARDSON Thank you, Mr Chairman I, too, wish to thank Mr Bluestone for his positive contribution, and we certainly will look at the language Is it part of your testimony?

Mr BLUESTONE Yes, sir

Mr RICHARDSON And Mr Steele, for announcing that meeting that you're going to have I know meetings are a favorite excuse of politicians, but I think that will be a constructive meeting

Mr Suzenski, I would like, in final preparation of my legislation—you mentioned you had some concerns with it Perhaps with some of the positive elements that some of the dishowners suggested, the language on decoders and the language on the scrambling, the bill might be acceptable to you In no way am I trying to make the industry, the home satellite industry, look bad If anything, I want to make it look stronger, and I wonder if you'd consider that before we introduce the bill?

Mr SUZENSKI I certainly would, Congressman Richardson My only concern is with the adverse publicity that the bill might foster And anything that could be done to ameliorate that I think is a good idea I've experienced in Santa Fe a lack of competition for the programming and services, and anything the Subcommittee could do to foster competition, rather than to impair it, I think would help the consuming public

Mr RICHARDSON And Mr Ramsey, not to leave you out, I would hope I can discuss with you sometime a number of letters I've received about Los Alamos and the cable reception there, and perhaps you might have some ideas in the future, and I want to thank you

Mr RAMSEY Thank you, sir I will be glad to cooperate in any way I can

Mr RICHARDSON Thank you, Mr Chairman

Mr FLORIO Let me at this point excuse this panel, and thank you very much We have approximately 10 minutes left We have eight individuals who have asked to come and just briefly give us their thoughts What I'm going to do is ask Mr Richardson's staff people to provide some microphones and ask these eight individuals to perhaps line up on this side Mr Abel Davis, Mr James Sasser, Mr Tony Biebel, Mr Max Lucero, Mr Rick Tryon, Mr Ed

Culotta, Malcolm Hart and Frank Lucero I apologize if I've mispronounced your names, but perhaps you could identify yourselves as you speak

STATEMENT OF ABEL DAVIS, TESUQUE, NM

Mr DAVIS Mr Chairman, Abel Davis, of Tesuque, dishowner Thank you for the opportunity Congressman Richardson, I would happily back both of your bills I have no technical ability I tell you, however, Congressman Richardson, that I think you're going to get all four affiliate stations because your house is higher than my house My house is 6 miles from this hotel It's in a valley I've never been able to get KOAT, the ABC affiliate, or the CBS affiliate

I apologize to those gentlemen It never occurred to me to call them I thought the problem was mine I tried some rather sophisticated aerials They didn't work I bought a dish It works I can get those networks

It has been mentioned this morning, but not emphasized to the extent that I think it is important, the difference between advertised signals and nonadvertised signals The HBO or the Cinemax movie certainly can only be paid for with a fee So that if you're going to get it, perhaps in spite of the air being free, you should pay for it But certainly, in my opinion, the network programming, which does carry advertising that I am forced to watch if I am going to see the program, I think I should be free to get

I'd like to commend you, Mr Chairman, for the way in which this meeting has been managed and would mention, therefore, a certain resentment on my part by the network affiliate people in describing us dishowners as thieves Thank you very much

STATEMENT OF MAX LUCERO, SANTA FE, NM

Mr FLORIO Sir, would you identify yourself?

Mr MAX LUCERO Mr Chairman, my name is Max Lucero I am a native Santa Fean I read the paper this morning and found out that you guys were going to have a meeting, and so I came by

Mr FLORIO We appreciate your stopping by

Mr RICHARDSON We're glad you are here, Mr Lucero

Mr MAX LUCERO Anyway, the point that I want to make is that myself, I have about six or seven TV's in my house And in the future I see something like that, that everybody will have a TV like that I used to live in a residential area Right now I live more or less right behind the National Cemetery Cable TV is about 200 feet away from my house I have requested service I was denied service a couple of times I wanted to put in a dish But at the moment, I cannot afford a dish But also, at the same time, due to the trees that I have in my area, I would like to challenge the people in the dish industry to make these dishes compatible so that if a resident like myself does want one, but does not want to violate code, that I can purchase a dish like that

And also for the private industry to give us more of a service Let's say, for instance, if I wanted to go through the telephone area, I have the telephone lines And I think that maybe not today, but a year or two from now, they'll come up with better ideas and

I'll be able to receive communications through the telephone lines And I would like to have that option, also And I would like to thank you for letting me speak this morning

Mr FLORIO Thank you very much

STATEMENT OF JAMES SASSER, ALBUQUERQUE, NM

Mr FLORIO Sir, would you identify yourself?

Mr SASSER Sasser, Jim Sasser, from Albuquerque I'm one of the unfortunate people that can't receive any over-the-air broadcasting, even though I'm only 3 miles from Albuquerque

My concern is, if CBS and the other programmers are concerned about the people who can't receive their programming, why, during the time on local stations, filled with local commercials, don't they have an advertisement for dishowners, asking them to write in with this type of information?

To the best of my knowledge, CBS isn't asking anybody nationally if they can't receive their signal They're just forming this little task group, but yet they're not putting out to the public this task group information The gentleman from KOAT said he'd never heard from me I've never heard his advertisement because I can't pick up him asking me to write to him And so it's a vicious circle They want us to reply, but I can't see his advertisement asking me to reply

Now Mr Richardson, I understand the reason you're trying to do this fair disclosure act My comment to you is, if you would like dealers to disclose information about programming, why don't you ask the cable companies to disclose information to the consumers, informing them that probably the cable company won't provide the programming they're asking for? Don't you feel that this should be an additional disclosure that possibly the cable companies should provide to potential customers, stating "Subscribe to me, but I may not be able to provide the programming you want"?

I'll give you a for instance When I moved to Albuquerque in 1982, in lived in Albuquerque, subscribed to the cable I lived there about 4 months And we got this questionnaire that was sent to all cable subscribers, asking what new channels they would like to see or what channels they would like deleted An overwhelming percent of the population in Albuquerque asked for the Disney Channel specifically As of today, Albuquerque Cable still has no intention of providing the Disney Channel Now don't you feel that this should also be a disclosure from the cable company's side that "We may not be able to provide that programming or won't provide that programming, so a satellite receiver may be your only alternate choice"?

This goes back to the chairman's question of wondering why in his area, which is heavily cable based, why dishes are going up This is a choice that should be required of all persons in the United States If your over-the-air broadcasts or your cable wire service cannot provide you, why should you not be required to have that choice of putting up a system?

And the majority of the people putting up these systems is because they're not satisfied with either the technical service, bad cable—I know in Albuquerque when it rains, you lose it over half

the city, and this is a nationwide problem, OK? So a lot of people go to the dishes for the quality of the programming, not to steal the signal

People have been trying to pay for this signal for years and have had checks returned by HBO and other programmers because they didn't want to legally establish the fact that they would service dishowners Now they have scrambling Now they can legally service the dishowners and get counts back, of course, on how many people are viewing them

That was a question with the Nielsen ratings An advertiser will say "Well, you've got 2 million dishes I've got to pay for that advertising because they're receiving the signal" If they scramble, they can get an accurate count of those particular services that are being paid for by the dishowner and they can increase their advertising rates per se That's one of the bigger thrusts that the advertiser-supported channels to scramble, so they can actually register fees

I thank you very much for letting me talk, and I appreciate your coming to Santa Fe

STATEMENT OF TONY BIEBEL, LOS ALAMOS, NM

Mr BIEBEL Mr Congressman, I'm Tony Biebel, from Los Alamos, NM I, likewise, belonged to that cable system up there until it became an impossibility to even receive their services

One thing I would like to say is that there has been a great deal said about the scrambler, as such Any communications Video Cipher 2 scrambler, which is an off brand of what you have there, was not developed by that company, it was not developed by HBO It was developed by funds and money provided by the U S Government for use in Vietnam This company has taken this technology and turned it to their own profit and has not bothered to ask whether they can do it Possibly they have been allowed to do it by the U S Government I don't think they have They applied to the U S Patent Office asking for a patent on this to be sold The Patent Office did not grant any patent more than what they had, since the difference on the inside was so minor that it didn't matter

We talked about costs, sir Let me acquaint you with costs Congressman, the people from your own district in New Jersey were quoted by HBO and Cinemax $325 for the scrambler and $28 75 per month if they purchased the scrambler and the initial year's system on VISA or Master Card When they hesitated and said that they would use a check, then the real cost came out of over $400 for the scrambler and $20 for that

These costs vary In Seattle people were told $290 for the scrambler, $16 50 a month, Baltimore, MD, $425 and $37 50 a month Myself, I called—it took five calls to simply reach somebody He said "$285 a month, VISA and Master Card, $19 50 a month for the services" I said "I would prefer to send you a certified check" "Mumble, mumble, mumble, $425, $32 a month" They're going for what the market could bear The only thing I see is a five-letter word stamped on their heads "Greed"

Now I object to being called a slick thief, not only by the manager of Channel 7 However, the director of the Federal Communications Commission, on the 9th of January in the Albuquerque Journal, when asked what he thought of cable television, said, "These people are thieves They're stealing from big business"

We all know how the current administration favors big business over the consumers TV Satellite Week conducted a poll of their purchasers as to how many would purchase descrambling, decoding information Three percent said they would pay the $300 to $400 necessary Fifty-seven percent said they would buy it at no cost whatsoever, mainly because of the type of programming that HBO and Cinemax were showing The percentage of people that would have bought it were mostly in the 25-to-38-year range The older people said they didn't care to see sex, profanity, and violence on television

I spent 22 years in the Army I have heard language on HBO and Cinemax programming that I never heard in the barracks, and we wouldn't have allowed it in the barracks

Mr FLORIO In the interest of allowing the others to participate——

Mr BIEBEL Yes, sir, one other comment, sir?

Mr FLORIO Sure

Mr BIEBEL The House Subcommittee on Telecommunications has a number of very distinguished people However, there are a few members on that committee, Mr Nielson of Utah, and Mr Waxman of California, and Mr Fields of Texas, who have said under no conditions would they even consider satellite television Naturally, their areas are 95- to 100-percent cable

Gentlemen, I'm willing to pay a fair price for a fair product I do not feel that CBS, ABC, NBC, Sherman Broadcasting or INM should be allowed to charge us to watch the advertisements that they're being paid for Even the ancient Romans weren't that bad They gave the Christians a break Thank you, gentlemen

Mr TRYON Thank you very much

Mr FLORIO Sir, could we ask our next three to please come forward? If we could ask you to perhaps make yours brief——

STATEMENT OF RICK TRYON

Mr TRYON I'll try to be as brief as I can I'd like to make about four to five points First of all, the whole attitude that I got from the cable operators and the people involved in cable was a monopolistic attitude, enforcing certain things on the public This is very reminiscent of the McCarthy era, when there was fear and misinformation and forcing it on the people

Second, the mode of transmission of information through cable is somewhat of a relic, a dinosaur of the fifties and sixties, when CBS, NBC and ABC were the biggies This is really kind of an ancient technology

What is happening now, of course, is that consumers are making more demands of businesses If those demands are met, then those businesses will succeed If they don't, then they will fail Obviously, cable has not met the demand for consumer service At this point,

a whole new industry has arisen out of that and is very healthy and doing well

Third or fourth, there's no standardization of descramblers At this point we have a minimum of three that I've passed on to Congressman Richardson, Tele, MA-COM and another one So there's no standardization to what is actually happening, and this is where the regulation should come in

Last, we have a very healthy American economy The people that are going to succeed and stay in business are the ones who are flexible and can adapt to the demands of the American public We really control We are the people We are the Government And when those needs are met, those companies can stay in business

Mr FLORIO Thank you very much

STATEMENT OF MALCOLM HART, SANTA FE, NM

Mr HART Mr Chairman, I'm Malcolm Hart, Santa Fe, NM I'm a satellite owner I do live out in the country But 1 year ago I had no knowledge of transmissions or what was legal or illegal We bought the satellite because it was better than a TV antenna Since then, we've found out that there are many different types of movie channels being shown over the air Some have commercials, some don't I do know on the national level the major broadcast companies, ABC, NBC, and CBS, do advertise, and I do receive these advertisements on my dish These advertisers pay for these transmissions It seems to me from hearing these different companies, HBO and ABC and NBC, all talk here today that they're trying to perpetrate a system of communications that is very outdated

My personal preference as a citizen is, let the buyer beware If I run out and buy this stuff, my dish, it's my loss of money If I want to pay for scrambled signals, let these people scramble

On a national level, I think the communications ought to be deregulated by the Government The Government should not enter into these regulations Therefore, let these companies that want to televise movie shows and sell advertisement and broadcast on a national scale directly to the homeowner, let them do it The homeowner will make the selection Thank you, sir

Mr FLORIO Thank you very much, sir

STATEMENT OF FRANK LUCERO

Mr LUCERO Thank you My name is Frank Lucero, and I'm a satellite dishowner

First, regarding your bill, I think it is a bill I would support Ninety-nine percent of all satellite dealers are very reputable dealers, and I think your bill is addressing a problem that is being created by a bigger problem, that problem being the scrambling issue

In regard to the scrambling issue, when I bought my satellite dish, I called the nearest cable company to me They informed me that it would not be feasible for them to come near the area that I was going to put a dish in and that the only way I would have access to cable programming, available to thousands of other Americans, would be to purchase my own satellite dish, which in essence made me an independent owner-operator of a cable company with a subscriber base rate of one, myself

Being an independent owner-operator of a cable company servicing my house, I feel that fair and reasonable pricing to watch all those programs which I feel HBO, The Movie Channel and ESPN, that they should receive fees for their services that they are paying to provide I am not opposed to that

However, I feel that I should have the same pricing structure sent to me as any other cable company My cost to keep my system in operation is just as expensive as any other cable system would be to operate And I feel that fair and reasonable pricing in this instance would be the same subscription rates applied to any other cable company

Congressman Mac Sweeney is introducing an amended bill, H R 3989, that I would ask this panel to review when it comes out—it's being drafted right now—and the people that I've talked to and represent ask that you look into this bill and support it Thank you

Mr FLORIO Thank you very much

STATEMENT OF ED CULOTTA, ANGEL FIRE, NM

Mr CULOTTA Thank you My name is Ed Culotta, and I am living at Angel Fire I have a business in Albuquerque And I just want to make one point

The reason I have a business in Albuquerque is because, as a resident of Angel Fire, believe it or not, I was getting terrible reception from the three major channels And I had a friend of mine who wanted to open up a distribution center for satellite equipment in Albuquerque, and later I agreed to do this

But I noticed that the gentlemen with the major stations are trying their best to get signals to everybody The fact is, they're not able to do it, and here is where the satellite industry is serving the public very, very strongly

Now they did say that they have a task force that is about 30 days old that is looking into these problems And I understand, correct me if I'm wrong, that it takes approximately 3 years to get a repeater station through the FCC Now if this is the case, I urge the two of you, in your deliberations, to remember that and remember that there are a lot of your constituents that cannot get signals now and probably will not be able to for some time to come, if not for the satellite dealer that distributes them

One last point It's interesting that of all the people you've had up here from the general public to talk, everybody has talked in favor of the satellite dish, and I haven't heard anybody yet speak for cable Thank you

Mr FLORIO Thank you very much Let me first of all acknowledge Congressman Richardson

Mr RICHARDSON Mr Chairman, This is out of order, in terms of the hearing I would just like to ask unanimous consent that a statement by Mr Ron Sheck, who is here on other business than is the jurisdiction of this subcommittee, and that is saving Amtrak, that he be allowed to make a statement for the record, not verbally, but in writing, in connection with a project he has relating to the needs of the State of New Mexico

Mr FLORIO Without objection, the committee will be pleased to receive that statement for inclusion in our other deliberations in regard to the Amtrak system [See p 96]

Mr FLORIO Let me conclude, first of all, by extending my sincerest appreciation to all who took part in today's hearing, not just the people who testified, but also to the other people here and to the media, who will certainly report this hearing

Because this is a hearing conducted in a way that is a very high commentary on the whole area, the State, the congressional district of my colleague, Congressman Richardson It is a hearing that is designed to provide information to us, information that is needed for us to try to go back and formulate national policies in certain areas Of course, we're dealing with a specific area today, but this is the essence of what the process is supposed to be about So it's a commentary on the area, the congressional district and the State They have been so willing to come forward to provide us with this type of information

And I happen to think this is a reflection upon your own Congressman, that he has gotten his people to be willing to come in a serious way, in an evenhanded way, in a balanced way, in a moderate way, to realize that we are all a part of the system And if we are willing to contribute input into the system, the system will work to a much greater extent

So I am pleased to express my congratulations to Mr Congressman Richardson I would express my appreciation to all, particularly the people here at the hotel and others that played a role in facilitating our ability to have this hearing And if there is no further business to come before the hearing, the hearing stands adjourned

[Whereupon, at 12 noon, the subcommittee was adjourned]

[The following statement and letters were submitted for the record]

CONGRESSIONAL HEARING ON SATELLITE DISHES
By Congressman JAMES FLORIO of NEW JERSEY
La Fonda Hotel, Santa Fe, New Mexico
Saturday, FEBRUARY 15, 1986

This written statement is on behalf of the Navajo Telecommunications Regulatory Commission, located at Window Rock, Arizona

The Navajo Telecommunications Commission was established by the Navajo Tribal Council Its stated purpose is "to act upon and regulate any and all matters of the telecommunications industry on the Navajo Nation including satellite dishes and to provide for the orderly development of this industry, and the operations thereby "

This Commission which represents the Navajo Tribal Government in telecommunications activities has had several predecessors dating back to the early seventies but it was not until March 1985 that the Tribe gave the Commission enumerated powers to regulate and monitor all telecommunications activities, and to develop and implement related Tribal laws, rules and policies The Commission is currently formulating a Regulatory Code, for which intergovernmental agreements with the States will be sought, to clarify areas where Tribal and State Telecommunications laws and policies interface, the Federal Communications Commission's input and approval concerning the Tribe's proposition of functioning as a clearinghouse or liaison for Navajo telecommunication concerns will also be sought

Insofar as the issue of scrambling of satellite programming, the NTRC understands, first of all, the rights that satellite program suppliers are entitled to However, as far as the Navajo Nation situation, the rural nature that is prevalent for this area affects the nature of television viewing

Over-the-air television is possible because of the use of translators, although this is limited the present cable company franchised by the Tribe, experiences a customer-per-mile rate of 18 compared to 60-80 for most areas of the surrounding

cities Because of the inherent cost-prohibitive factors that stem from the rural nature of the reservation, this cable company only offers one-tier to its subscribers and has been reluctant to expand its service capabilities

Therefore, satellite dishes, purchased by families for private viewing in those remote areas, with limited access to television programming, are the only viable alternative available besides video-rentals Now, these people face the "real possibility" that the substantial investment in acquiring earth-station satellite receivers will have to include new costs for de-scramblers in addition to costs for subscribing to the satellite programming

The NTRC, in lieu of a Regulatory Code, has not yet formally addressed this issue, and there are still many developments pending that will likely be affected by the outcome of this issue, such as proposed amendments to Section 705 of the Cable Communications Act (of 1984) However, tasked with the responsibility of providing for orderly development of telecommunication on the Navajo Nation, the NTRC supports any such guarantee that, as the Honorable Representative Judd Gregg of New Hampshire put forth to the House of Representatives April 16, 1985 and we paraphrase from the Congressional Record, ensures encryption would not 'foster selective distribution of television programming to elite groups based on their geographic location, economic status, affiliation with a cable system or any number of criteria which result in the withholding of service to rural Navajos and other rural Americans '

While the rights and interests of program suppliers must be provided for, the time for a competitive marketplace to develop should be one of the paramount considerations of the legislative bodies A market area that is allowed to develop will bring forth new competitors, each vying with one another to provide the customer a product that has both quality and affordability

Guy Gorman, Sr
Chairman
NAVAJO TELECOMMUNICATIONS
REGULATORY COMMISSION

PO Box 475
DT Cunningham, VA 23515
February 16, 1986

(to Book)

Congressman James J. Florio
U.S House of Representatives
Washington, D.C. 20515

Dear Congressman Florio:

Yesterday I was in Santa Fe on 1st and attended 2nd & 3rd the Subcommittee hearing on Satellite Dish Sales Consumer Protection concerning the proposed legislation to be introduced by Congressman Richardson. I would like to offer the following comments to be placed into the Congressional Record.

First, I do not have any problems with Congressman Richardson's proposed legislation, although I do not believe it is needed. I think the majority of satellite dish dealers are informing their customers of the possibility of future scrambling when they purchase a dish. The regulation of all dealers for the potential problem that a very few may be responsible for, in my opinion is unnecessary regulation.

I would like to say the need for regulation is in the Cable TV Industry itself. The industry appears to want their pie, and everyone else's, and eat it too. I am sure that one day

in the not too distant future the owners of satellite dishes (for private use) will be required to pay to the service they receive. I believe we should not have to pay anymore than the local (of which there is not one where I live) cable company pays. We incur no costs to cable TV companies, therefore we should not have to pay an additional (and it appears exorbitant) amount to access the services. I believe the purchasing of a dish and the monthly service fee equal to that the local cable operator pays is fair.

I do not believe a comercial network that receives revenues from advertisers, such as the major networks, CNN, WTBS or many others, should be able to scramble its signal then charge for its services. With companies paying upwards to $1,000,000 a minute for some comercial advertisements I do not think these networks can justify charging TURO owners.

Congressman Florio, I ask you to remember that most of the private TURO dish owners purchased their

Congressman James J Florio
February 16, 1984
Page 3

systems at considerable expense because they could not receive quality theatrical transmissions. Now that they are finally able to receive good quality, which by the way is unavailable in oversized dishes at the price, I do not believe that home TVRO dish owners will put the cable companies at the loss. I believe the fees demanded for these services must be equitable.

Finally, I would like to set the record straight on home TVRO dish owners not being thieves. We are utilizing a technology that was developed by Americans for Americans and the rest of the world. I believe it is shameful for a local network affiliate manager to describe home TVRO dish owners as thieves in the Congressional Record.

I would urge your committee looking into the satellite dish industry and allowing me to express my concerns.

Sincerely,
Joseph Sitarzewski
Joseph Sitarzewski

STATEMENT OF SATELLITE DEALER SUPPLY

P O Box 193
Angel Fire, NM 87110
February 17, 1986

Representative Bill Richardson
Congress of the United States
325 Cannon House Office Building
Washington, D C 20515

Dear Mr Richardson

I wish to thank you for holding a field hearing on the subject of Satellite Dishes The hearing was informative, balanced and well organized I came to a better understanding of the problems facing everyone in our industry

I am the Vice-President of a distributorship for satellite dishes in Albuquerque One problem which did not receive attention at the hearing is the hardship suffered by Satellite Dish dealers occasioned by scrambling On January 15, a curtain suddenly fell across our industry The phones stopped ringing, no customers came through the dealers doors and sales plummeted dramatically Many dealers will be driven out of business in the near future It would be difficult to contend that the consumer is unaware that if he purchases a dish, there is and may be more scrambling

Although customers who own dishes with whom I have spoken are still delighted with their television reception, those who have not purchased are now frightened to do so This indicates to me that the consumer has received a plethora of information on the disadvantages of owning a dish and nothing has been done to counteract this negative impression Indeed, the Satellite industry has not received the cooperation of the media, some or most of whom are threatened by the Satellite Dish industry

Mr Richardson, you have given the people of New Mexico a chance to speak I believe that what you heard was that the consumers in our state want Satellite Dishes and the great majority do not mind paying a reasonable price for programming Contrary to the comments of the broadcasters on your panel, in a great many cases this is the only way many in our rural population can receive television

Incidentally, Mr Richardson, the Congressman from New Jersey may be interested in an example of the type of situation unique to the mountains of north central New Mexico At Angel Fire we rent a condominium and do not have a Satellite Dish We receive (intermittently) a very weak signal from one channel (7) The picture is almost obscured by snow During the elk mating season last year, the transmitter on the mountain in Kit Carson National Forest went out The Forest Service refused to let a crew enter the forest to repair the transmitter No way would they allow the elk to be disturbed Television reception was completely shut down This is not a problem one would be likely to encounter in New Jersey!

A moratorium would be an effective way to get the word out to the public at large, that Satellite Dish owners have legitimate rights-the right to receive information and the right of choice as to the information they wish to receive To have these rights recognized by the Congress of the United States would be the strongest reinforcement possible

I would appreciate your including these comments in the written record of the hearing held Saturday, February 15, in Santa Fe We appreciate your bringing the Representative from New Jersey We were most impressed with his comments and his quest for understanding of this issue

Yours truly,

Ed Culotta

Ed Culotta, Vice President
Satellite Dealer Supply
3754 Hawkins NE
Albuquerque, NM 87109

Curtis Mathes

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WHY OWN ANYTHING LESS?

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February 26,1986

Congressman Bill Richardson
325 Cannon Office Building
U S House of Representatives
Washington, D C 20515

Congressman Richardson,

My name is Randy M Webb I am the owner of the Albuquerque area franchise of Curtis Mathes We have installed satellites from as far as Chama, Gallup, Socorro, and Vaughn New Mexico There is a degradation of television signals in these areas Some of these cities only have limited cable viewing

Experience has shown that video cassette recorders have hurt the cable business more so than the satellite industry The people in these cities are buying VCR'S and getting off cable Due to limited cable availability, they join movie clubs to replace cable viewing of the movies This method prevents them from have to pay the cable companies for H B O ,Showtime, and the Movie Channel

Again, I thank you for the opportunity of submitting this statement into the record from the hearing in Santa Fe, New Mexico

Sincerely,

Randy M Webb

TESTIMONY BEFORE THE

HOUSE SUBCOMMITTEE ON COMMERCE, TRANSPORTATION

AND TOURISM

(Santa Fe, New Mexico February 15, 1986)

Chairman Florio, Members of the Subcommittee on Commerce, Transportation, and Tourism, Ladies and Gentlemen

I am Ronald C Sheck, Director, Planning and Development Division, New Mexico Transportation Department

New Mexico is strongly opposed to the Reagan Administration budget proposals to eliminate federal funding for Amtrak, to sharply cutback and restructure UMTA public transportation assistance programs, and to eliminate the essential air service program Within the purview of this committee, our immediate concern today is the intercity rail passenger service operated by Amtrak Elimination of Amtrak funding would, of course, mean a halt to all intercity rail passenger service operating nationwide Here in New Mexico, discontinuing Amtrak comes at a time when passenger ridership is growing, alternate transportation is diminishing, and when state and local efforts are aimed at improving and expanding public transportation in general

Amtrak offers rail passenger service on two routes to seven New Mexico cities and towns (Albuquerque, Santa Fe via Lamy, Gallup, Raton, Las Vegas, Deming and Lordsburg), whose combined population represents about 40 percent of the state total Over 70,000 passengers board or detrain at these stations annually We estimate that tourists arriving by Amtrak trains in New Mexico spend in excess of $10 million per year in the state

The New Mexico Transportation Department is very conscious of the importance of public transportation to our citizens and is working to improve and expand services at several levels One improvement that ranks high on our list is to forge connections between modes and between intercity and local public transportation To this end, we have developed a multimodal terminal project This project involves Amtrak, intercity bus carriers, local taxi service and other transportation providers at three New Mexico cities Gallup, Las Vegas and Raton Implementing this project will provide significant benefits to the traveling public by making the transfer from one mode to another easier and will reduce costs for the transportation providers through sharing of common facilities

Many successful multimodal terminal projects exist in other states, but we believe our approach here is somewhat unique and could serve as a model to be applied elsewhere Where most other projects have been carried out largely with public money, and are primarily located in medium sized or large cities, we are dealing with towns in the 8,000 to 25,000 population range and plan to leverage private sector

investment with a minimum of public funds Another unique aspect of our plan is to have the facilities operated by a "transportation broker" who will sell tickets for all users

Existing railroad stations will be used for the multimodal facilities State funds in the amount of $90,000 are being requested this year for planning and architectural design Next year, state funds in the amount of $420,000 will be requested for site improvements parking, street access, utilities, etc The public fund investment will leverage about $1 2 million in private sector money to carry out the actual structural renovation and rehabilitation Because the stations are historic structures, developers can take 25 percent historic preservation tax credits - a real attraction for private investment Lastly, the railroad has been asked to donate the structures Benefits to the railroad include tax deductions, removal of the property from local tax rolls and savings from not having to maintain the structures The station structures are conservatively estimated to have a value of between $300,000 and $500,000 Therefore, the public investment will produce between $3 and $4 of value for every dollar of state money

Actual operation of the facilities would be by a private party who would maintain and manage the structure, sell tickets for the various transportation operators, and perhaps dispatch local taxi services

Significant labor savings would accrue to Amtrak and other carriers Some space will be rehabilitated and leased back to the railroad at a nominal cost for freight operation needs

Appended to this testimony (Attachment A) is additional detail and supporting documentation on the project

We believe this project shows the commitment of the State of New Mexico and the local communities to improve public transportation and at the same time to help the carriers to provide their service in a more cost efficient manner Strong local support for this project exists, and the terminals will tie in with Main Street historic preservation efforts or local urban redevelopment plans

I thank you for the opportunity to submit this testimony and would welcome any questions that members of the Committee might have

Sheck Testimony
(Attachment A)

MULTIMODAL TRANSPORTATION TERMINALS

GALLUP

LAS VEGAS

RATON

Transportation Department
Planning and Development Division
P O Box 1028
Santa Fe, New Mexico 87504

827-4770

MULTIMODAL TRANSPORTATION TERMINALS

PROJECT OVERVIEW

Acquisition and development of historic railroad stations in Gallup, Las Vegas and Raton as multimodal transportation centers for use by Amtrak, intercity bus (Greyhound, Trailways, Navajo Transit), local taxi services and related activities State funds would be used to carry out planning and concept design, architectural and engineering work and infrastructure improvements, i e , streets, parking, utilities Private sector developers would carry out actual renovation and rehabilitation of the structures Operation of the facilities would be carried out by a "transportation broker" who would sell tickets for all carriers and manage and maintain the terminals Similar projects have been very successful in other states including California, Michigan, New York, Pennsylvania, New Jersey, Maryland, Delaware, Connecticut, Massachusetts and Minnesota

BENEFITS

For the traveling public

- Brings all carriers together into a single location for user convenience
- Attractive, comfortable terminals in easily accessible downtown locations with adequate parking

For the transportation carriers

- Reduced physical plant costs through sharing of facilities
- Reduced labor costs resulting from "transportation broker" concept
- Potential for enhanced ridership from better connections between modes

For the local communities

- Better public transportation facilities for local residents and for tourist development
- Rehabilitation of historic structures
- Economic development tie-ins with other urban redevelopment and historic preservation
- Attractive structures will have spillover in enhanced opportunities on adjacent properties

For the State

- Improved linkages in the public transportation network for New Mexico citizens and out-of-state visitors
- Enhanced tourism opportunities
- Improved overall image for attracting investment

BUDGET ESTIMATE

Multi-Modal Passenger Terminal Project

(Gallup, Las Vegas, Raton)

	Planning & Design [1]	Site Improvements [2]	Structural Renovation & Improvement [3]	Total Project
Gallup	$30,000	$170,000	$490,000	$690,000
Las Vegas	$30,000	$125,000	$398,720	$553,720
Raton	$30,000	$125,000	$335,000	$490,000
TOTALS	$90,000	$420,000	$1,223,720	$1,733,720

1 State fund request, 1985

2. State fund requests subsequent years

3 Private sector and/or local funding

NOTE. Land acquisition costs are not included

TRANSPORTATION DEPARTMENT CAPITAL PROJECT REQUEST

INTERMODAL TRANSPORTATION FACILITY DEVELOPMENT

PROJECT DESCRIPTION

Multimodal "one stop" transportation centers would be developed at three towns (Gallup, Las Vegas, Raton) using existing railroad stations along Amtrak's Southwest Limited route These stations (all historic properties) would be rehabilitated and expanded to provide space for (in addition to Amtrak trains) intercity bus operations (Greyhound, Trailways), rural transit operations (Navajo Transit), local taxi operators, and perhaps even New Mexico Transportation Department Motor Vehicle Division field offices The public transportation facilities could be leased to a private operator/broker who could sell tickets for all users State would finance planning, acquisition and design through a grant program, matching of state funds with federal and/or private foundation funds from a range of sources Private capital options are a possibility for building rehabilitation through a variety of tax credits and other benefits

FUNDS REQUESTED $90,000

The funds requested would be for initial acquisition of the properties, architectural and engineering services for site and building design including structure renovation plans, utility upgrading, rail and road access improvement, landscape design, and preliminary site development work including clearing of unusable structures, utilities and drainage works, parking and street improvements, plus contingencies

ATTACHMENT

Background material on the overall concept, the three separate stations, similar projects elsewhere in the United States, and funding sources

OVERVIEW OF THE THREE STATIONS

RATON — Concrete and stucco station built in 1904

Potential uses: Amtrak (2 trains daily), Greyhound Lines (4 buses daily), local taxi service

Other possibilities: Part of downtown historic redevelopment area, additional future has service to northern New Mexico ski areas

LAS VEGAS — Brick veneer depot built in 1898

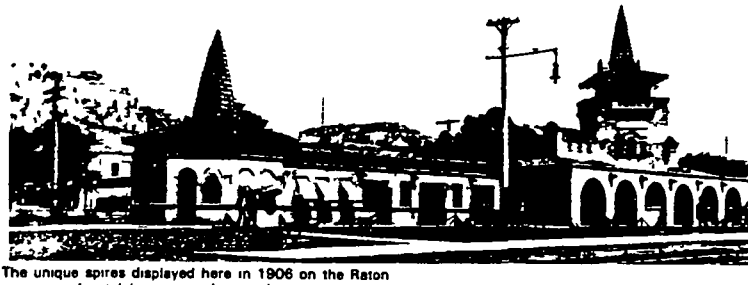
Potential uses: Amtrak (2 trains daily), Greyhound Lines (4 buses daily), local taxi service

Other possibilities: Railroad related historic area with former Harvey House Hotel "Castaneda" adjacent for major tourism development potential

GALLUP — Brick and stucco passenger station

Potential uses: Amtrak (2 trains daily), Greyhound (14 buses daily), Trailways (10 buses daily), Navajo Transit (6 buses on weekdays), local taxi service

Other possibilities: Gallup actively involved in downtown rehabilitation project with railroad station situated in area Navajo Transit service anticipated to expand frequencies, days of service and service extension to Zuni and Ramah



The unique spires displayed here in 1906 on the Raton passenger depot did not remain long on the structure due to maintenance difficulties *(New Mexico State Records Center and Archives)*



The Lamy depot in 1933 before the tower was removed Part of the train crew waits patiently in the foreground for the passengers to board *(Santa Fe)*



Las Vegas became one of the first stations to receive a masonry replacement for the original wood frame depot when this brick structure was completed in 1898 *(Courtesy Museum of New Mexico)*

