



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

756

OFFICE OF  
THE CHAIRMAN

June 4, 1993

Honorable John C. Danforth  
Ranking Minority Member  
Committee on Commerce, Science  
& Transportation  
United States Senate  
554 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator Danforth:

We are writing to inform members of the Senate and House Communications and Appropriations Committees of the severe resource problems facing the FCC regarding implementation of the 1992 Cable Act. Without sufficient additional funding, the FCC will be unable to put into effect the 1992 Cable Television Consumer Protection and Competition Act, which is characterized by some members of Congress as one of the most important pro-consumer bills of the last Congress.

As you know, the Administration in January 1993 requested a supplemental FCC appropriation of \$12 million and an additional \$16 million for FY '94 to provide resources needed for implementation of the 1992 Act. The amount requested was substantially under the \$20-50 million annual cost estimate prepared by the Congressional Budget Office (CBO) prior to the time that the Cable Act became law.

As of today, supplemental funds have been requested, but not received.

Under the current funding shortfall, two options are open to us:

- (1) Either we must defer putting into effect any and all cable rules that require FCC action until October 1st, the beginning of FY 1994. Additionally, we could extend the current rate freeze that is in effect through August 3rd; or
- (2) We must allow cable rate regulation to start as scheduled June 21st, but notify consumers and local franchising authorities that FCC mail responses, certifications, etc., will be substantially delayed pending supplementary funding and training of additional employees. Enforcement of most non-rate-related rules already in effect would also be substantially delayed because of the agency's lack of resources. These delays could be relieved by prompt supplementary funding.

By the end of June, the FCC will have completed promptly and on schedule 32 items called for by the Cable Act. (See Attachment A.) We anticipate that we will have to complete at least 27 more items in the ensuing months to fully implement this law. (See Attachment B.) As part of the cable rulemakings, the Commission had announced a June 21, 1993 date for putting into effect key provisions of its rate regulation decision. These provisions are expected to save consumers over \$1.0 billion. Unfortunately, the Commission has not received funding from Congress in response to its supplemental appropriation request. As a consequence, the Commission is currently confronted with choosing between the two options described above.

Independent of the Cable Act, the Commission already is operating under a budget shortfall of \$18 million for FY '93. To make up for the absence of adequate funding this year, the Commission has put in place a hiring freeze, engaged in an "early-out" retirement program, and is still projecting a need to furlough all employees for up to five days. (See Attachment C.) With the added responsibility of implementing the Cable Act, the Commission is hardpressed to enforce the Act with its depleted resources. For example, the Commission does not have sufficient resources to respond to public requests for cable rate complaint forms.

Because of the hiring freeze and the resulting heavy workload throughout the Commission, we cannot shift staff to do the substantive work required to implement the Act without a devastating impact on other areas of responsibility. (See Attachment D.) Moreover, even if we were to divert existing staff from their current duties, we could not begin prompt enforcement of our rate regulations because we do not have sufficient personnel with the necessary skills to process rate complaints. Similarly, while we anticipated contracting for various technical support services, such as mail handling, data entry and computer programming, we do not believe it would be appropriate to do so since funds necessary for contracting would increase the number of days the FCC staff would have to be furloughed. (See Attachment E.)

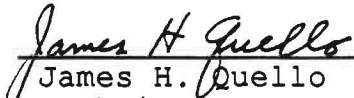
The Commission must be prepared to respond to the 57 million cable subscribers and 30,000 franchise authorities who play a critical role in the cable television rate regulation program mandated by Congress and implemented by the Commission. Already, the Commission has received 2,000 rate complaints from cable subscribers. If only 1% of 57 million subscribers file complaints, we will receive 570,000 pieces of mail. Without funds to hire and train staff, buy equipment, or obtain mailing supplies, photocopy paper and postage, we cannot respond to the potential deluge of mail. We can not emphasize too strongly how crucial it is that the FCC receive necessary funds to effectuate the goals of this important legislation.

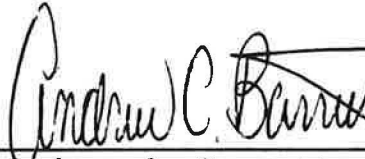
June 4, 1993  
Page Three

We welcome your thoughts on how we might resolve our funding problems in the months ahead. We also request your views on how we might best respond to the public given the circumstances outlined in this letter. By delaying further implementation to October 1st, we would provide a longer effective time for the Congress to determine how it will support funding for the FCC's cable program. For that reason, and because of the difficulties facing the agency in the absence of timely and adequate supplemental funding, we are considering adopting option (1). This delay assumes that the Commission will receive its additional requested funding for FY '94 to cover the expense of implementing the Act.

For your information, we also are enclosing a copy of a letter from Chairman Markey to Chairman Natcher describing the urgent need for additional FCC funding. (See Attachment F.)

Most sincerely,

  
\_\_\_\_\_  
James H. Quello  
Chairman

  
\_\_\_\_\_  
Andrew C. Barrett  
Commissioner

  
\_\_\_\_\_  
Ervin S. Duggan  
Commissioner

Enclosures



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

June 4, 1993

OFFICE OF  
THE CHAIRMAN

*Saw*

Honorable Ernest F. Hollings  
Chairman, Committee on Commerce, Science  
& Transportation  
United States Senate  
254 Russell Senate Office Building  
Washington, DC 20510

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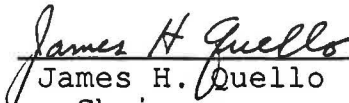
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James H. Quello  
Chairman

  
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Commissioner

  
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Ervin S. Duggan  
Commissioner

Enclosures

1992 Cable Act Rulemaking Items  
Completed by June 24, 1993

<u>Title &amp; Docket No.</u>	<u>Action</u>
Indecency/Obscenity (Section 10) MM Docket No. 92-258	<u>NPRM</u> , FCC 92-498, 7 FCC Rcd 7709 (1992)  <u>1stR&amp;O</u> , FCC 93-72, 8 FCC Rcd 998 (1993)  <u>2dR&amp;O</u> , FCC 93-164, 8 FCC Rcd 2638 (1993)
Must-Carry/Retransmission Consent (Sections 4, 5 and 6) MM Docket No. 92-259	<u>NPRM</u> , FCC 92-499, 7 FCC Rcd 8055 (1992)  <u>R&amp;O</u> , FCC 93-144, 8 FCC Rcd 2965 (1993)  <u>Stay Order</u> , FCC 93-278 (rel: 5/27/93)  <u>Clarification Order</u> , FCC 93-284 (rel: 5/28/93)
Home Wiring (Section 16) MM Docket No. 92-260	<u>NPRM</u> , FCC 92-500, 7 FCC Rcd 7349 (1992)  <u>R&amp;O</u> , FCC 93-73, 8 FCC Rcd 1435 (1993)
EEO (Section 22) MM Docket No 92-261	<u>NPRM</u> , FCC 92-539, 8 FCC Rcd 266 (1993)  <u>R&amp;O</u> (to be adopted 6/24/93)

Tier Buy-through  
(Section 3)  
MM Docket No. 92-262

NPRM, FCC 92-540,  
7 FCC Rcd 8672 (1992)

R&O, FCC 93-143,  
8 FCC Rcd 2274 (1993)

Customer Service  
(Section 8)  
MM Docket No. 92-263

NPRM, FCC 92-541,  
7 FCC Rcd 8641 (1992)

R&O, FCC 93-145,  
8 FCC Rcd 2892 (1993)

Ownership  
(Sections 11 and 13)  
MM Docket No. 92-264

NPRM/NOI, FCC 92-542,  
8 FCC Rcd 210 (1992)

R&O/FNPRM (to be adopted 6/24/93)

Program Access  
(Sections 12 and 19)  
MM Docket No. 92-265

NPRM, FCC 92-543,  
8 FCC Rcd 194 (1992)

1st R&O, FCC 93-178,  
58 FR 27658 (5/11/93)

Rate Regulation  
(Section 3)  
MM Docket No. 92-266

NPRM, FCC 92-544,  
8 FCC Rcd 510 (1992)

Order, FCC 92-545,  
8 FCC Rcd 226 (1992)

Freeze Order, FCC 93-176,  
8 FCC Rcd 2921 (1993)

Freeze Clarification, 58  
FR 19626 (4/15/93)

Stay Order, FCC 93-185,  
8 FCC Rcd 2917 (1993)

R&O/FNPRM, FCC 93-177,  
58 FR 29736 (5/21/93)

Stay Order, FCC 93-264,  
58 FR 29553 (5/21/93)



Cable Equipment  
Compatibility  
(Section 17)  
ET Docket No. 93-7

NOI, FCC 93-30,  
8 FCC Rcd 725 (1993)

Home Shopping  
Stations  
(Section 4(g))

NPRM, FCC 93-35,  
8 FCC Rcd 660 (1993)

R&O (to be adopted 6/24/93)

Sports Programming  
Migration  
(Section 26)  
PP Docket No. 93-21

NOI, FCC 93-77,  
8 FCC Rcd 1492 (1993)

Interim Report (to be adopted  
6/24/93)

Direct Broadcast  
Satellite  
(Section 25)  
MM Docket No. 93-25

NPRM, FCC 93-91,  
8 FCC Rcd 1589 (1993)

Proposed Schedule of Further Cable Proceedings

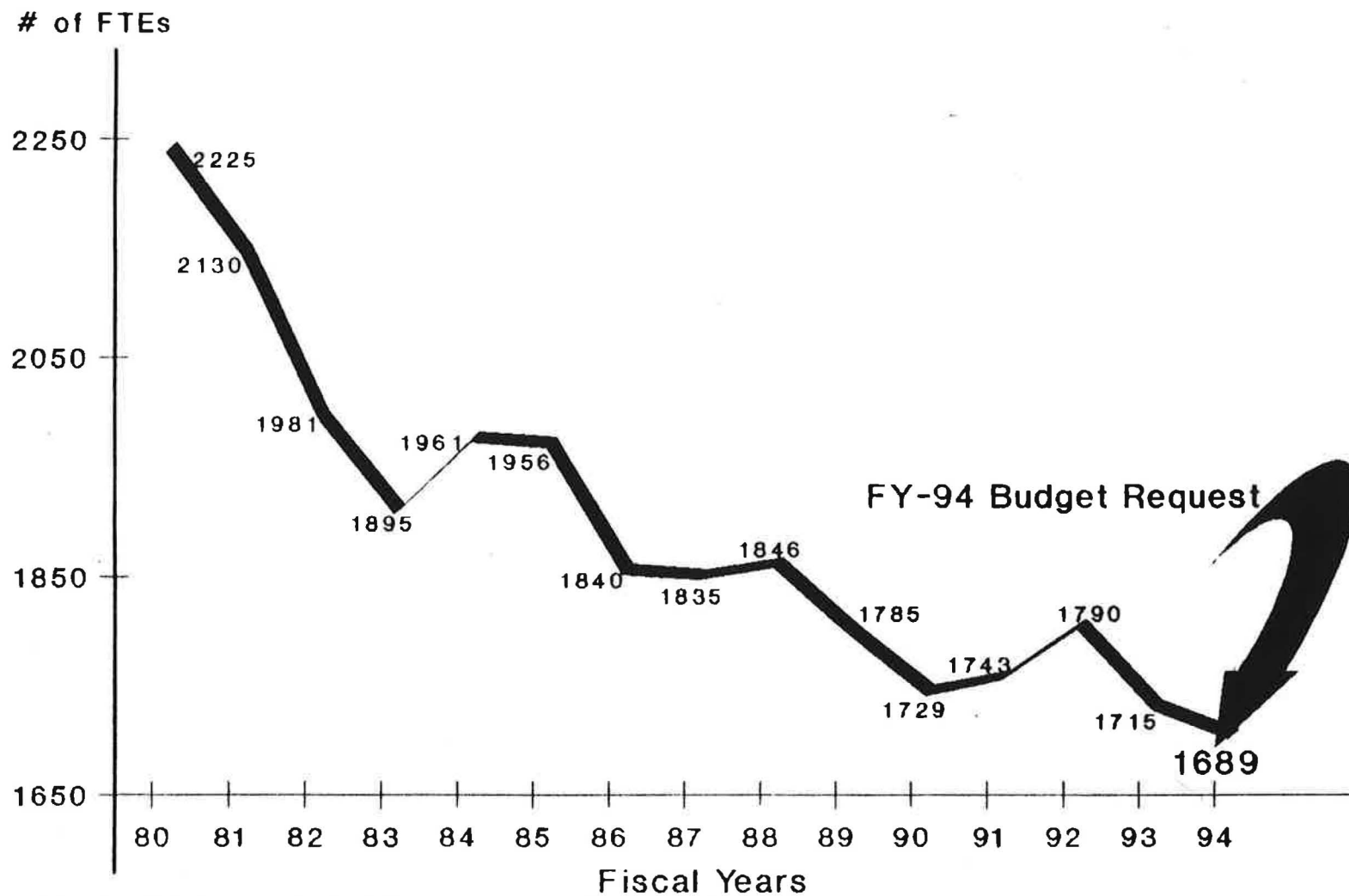
1. Must Carry/Retransmission Consent Reconsideration
2. Program Access Reconsideration
3. Rate Regulation Reconsideration
4. Home Wiring Reconsideration
5. Tier Buy-Through Reconsideration
6. Indecency on Leased Access Channels Reconsideration
7. Obscenity on PEG Channels Reconsideration
8. Customer Service Reconsideration
9. Equal Employment Opportunity Reconsideration
10. Home Shopping Station Reconsideration
11. Trafficking/Cross-Ownership Reconsideration
12. Sports Migration Final Report
13. Public Interest Obligations for DBS Report and Order
14. Public Interest Obligations for DBS Reconsideration
15. Horizontal and Vertical Ownership Restrictions Report and Order
16. Horizontal and Vertical Ownership Reconsideration
17. Cable Carriage Agreements Report and Order
18. Cable Carriage Agreements Reconsideration
19. Equipment Compatibility Report and Further Notice
20. Equipment Compatibility Report and Order
21. Equipment Compatibility Reconsideration
22. New Benchmark Survey for Cable Rates
23. Further Notice on Cost-of-Service Issues
24. Cost-of-Service Report and Order

25. Cost-of-Service Reconsideration

26. Competitive Rate Differential Report and Order

27. Competitive Rate Differential Reconsideration

## Full Time Equivalents (FTEs) FY 1980 - 1994



**Note:** FY93 and FY94 levels reflect OMB mandated reductions of 17 FTEs in FY93, and an additional 26 FTEs in FY94. FY93 and FY94 levels do not include FTEs to provide Cable support.

## **Impact of Absorbing Cable Act Costs**

***If the required 240 FTEs are not provided in FY 1994, we would have to detail staff from existing programs within the FCC to perform Cable Act work, even though some required occupational categories are not sufficiently represented on the current staff. Detailing staff from these other organizations would result in the following impacts:***

### **MASS MEDIA BUREAU**

- AM, FM, and FM translator stations; cable special relief petitions; television; low power television and TV translator applications - 25% increase in application processing times.
- Rulemakings - would take 25% longer to complete, delaying the introduction of new services.
- Complaint resolution - 30% increase in resolution time.
- Review of broadcast EEO data - 30% increase in processing time.

### **COMMON CARRIER BUREAU**

- Rulemakings - severe delays affecting the introduction of new services.
- Uniform System of Accounts - severe delays and reduced oversight due to 50% reduction in accounting expertise and 75% reduction in public utilities legal staff.
- Multi-Point Distribution Systems - 50% increase in application processing time.
- Wireline systems - 50% increase in application processing time. Reduced oversight of the public switched telephone network.
- Domestic satellite systems - 40% increase in application processing time.
- Cellular and Domestic Public Land Mobile systems - 33% increase in application processing times.
- International facilities - 50% increase in application processing time.
- Cost and revenue studies for jurisdictional separations, access costs, rate base and tariff reviews - severe delays.
- Field investigations and audits - 36% reduction in number of investigations/audits.

- Dominant common carriers' depreciation rates analysis - significant delays.
- International policy development and representation of U.S. interests at international conferences - significant impairment.
- Formal and informal complaints - would take twice as long to resolve.
- Tariff reviews - would take 25% longer to complete.

#### **PRIVATE RADIO BUREAU**

- Rulemakings - would take 20% longer to complete, delaying introduction of new services.

#### **FIELD OPERATIONS BUREAU**

- Enforcement - would take 20% longer to resolve enforcement cases.

#### **OFFICE OF ADMINISTRATIVE LAW JUDGES**

- Existing law judges would need to spend 50% of their time on cable related hearings resulting in significant delays for all other hearings.

#### **OFFICE OF MANAGING DIRECTOR**

- Severe loss of financial oversight capability and delays in implementing financial management improvements.

CABLE ACT SUPPORT ACTIVITIES

June 4, 1993

Overview

On relatively short notice, the Commission could contract for most of the preliminary support services required to implement the new cable legislation. These services would have to be funded from the Commission's compensation accounts, adding to the number of furlough days required of all FCC staff.

The following estimates do not include any substantive review or processing of cable complaints, cable franchising authority certifications, or any other filings associated with the new cable rules and regulations. Absent a supplemental appropriation and/or ongoing funding for the 240 positions approved by OMB, staff would have to be diverted from other Commission programs and activities. (See separate paper on the "Impact of Absorbing Cable Act Costs" for the programmatic impact of this diversion of staff resources.)

Estimated Administrative Support Costs - Balance of FY 1993 Only

(1) Automated Cable TV Information Line	\$30,000
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To provide initial response to cable inquiries. Would ask that all inquiries and requests for forms be sent in writing to the designated special mailbox.

(2) Special Mail Boxes	1,000
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(3) Forms Printing	-0-
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Initial supply to be printed in-house using existing paper stocks.

(4) Forms Distribution	150,000
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(4) Intake Processing	200,000
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Includes opening mail, date stamping, coding forms, key stroking into a database, return of incomplete filings, and distribution to MMB and reference room. Does not include any substantive processing or responses to filings/inquiries.

(5) Public Reference Services	60,000
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Interim, off-site contractor operated reference room to provide public reference service and data base access for new cable filings.

<b>TOTAL ADDITIONAL COST</b>	<b>\$441,000</b>
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Note: Equals one and 1/4 additional furlough days for all FCC employees.

EDWARD J. MARKEY MASSACHUSETTS, CHAIRMAN

W. "BILLY" TAUZIN, LOUISIANA  
RICK BOUCHER, VIRGINIA  
J. MANTON, NEW YORK  
J. LEHMAN, CALIFORNIA  
BILLY CANTO, CALIFORNIA  
MARGOLIS-MEZYNSKY,  
PENNSYLVANIA  
MIKE SYNAR, OKLAHOMA  
RON WYDEN, OREGON  
RALPH W. HALL, TEXAS  
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JIM COOPER, TENNESSEE  
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PAUL E. GILMORE, OHIO  
CARLOS J. MOOREHEAD,  
CALIFORNIA (EX OFFICIO)**U.S. House of Representatives****Committee on Energy and Commerce****SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE****Washington, DC 20515-6119**DAVID H. MOULTON  
CHIEF COUNSEL AND STAFF DIRECTOR

May 12, 1993

The Honorable William H. Natcher  
Chairman  
Committee on Appropriations  
H-218 Capitol  
Washington, D.C. 20515

Dear Chairman Natcher:

The Cable Consumer Protection and Competition Act of 1992 was one of the most important pro-consumer bills to pass in the last Congress. Recent reports estimate that consumers will save between \$1 billion and \$1.5 billion this year when the law is fully implemented. It is critical that the Federal Communications Commission (FCC) receive funds in the '93 supplemental appropriations in order to begin to implement the regulations this summer.

I understand that the Administration has requested \$12 million for implementation of the Cable Act in the supplemental appropriations bill for fiscal 1993, and \$16.1 million for fiscal 1994. I urge you to include this appropriation in fiscal years 1993 and 1994. I do so fully aware that these funds have not been authorized by Congress due to the Senate's failure to act on the authorization passed by the House. I hope that this would not be held against the Commission itself.

The FCC can not reallocate employees from other areas in order to carry out the provisions of the Cable Act because the types of employees necessary are accountants, economists and other specialists not currently widely employed by the Commission. In addition, the FCC is falling further behind in the implementation of its existing duties as a result of new duties recently imposed by Congress through the Cable Act. Without additional funding in the fiscal 1993 supplemental, delays would increase in such important areas as applications processing time for station licenses, enforcement cases, and tariff reviews.

The Committee also should be aware that the FCC is engaged in crucial rulemaking that will define the future of our communications system. One rulemaking will establish a new telephone service, Personal Communications Service (PCS). Another



The Honorable William H. Natcher  
May 12, 1993  
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rulemaking will review burdens on various communications companies, in an effort to make them better able to compete in the marketplace. Finally, the FCC is now obligated, due to a Court of Appeals decision last November, to increase regulatory control over hundreds of common carriers that were not previously subject to regulation. This court decision alone justifies a substantial increase in FCC resources.

Over the next year the FCC will be in charge of raising over \$7 billion for the Treasury through spectrum auctions. On May 11, 1993, the Energy and Commerce Committee reported out an auction bill as part of budget reconciliation proposal. The FCC will need substantial resources to implement this auction system properly and to maximize revenues for the Treasury. With adequate resources in fiscal years 1993 and 1994, the FCC will be able to collect billions of dollars in auction fees over the next five years.

Additional funding for the FCC in the fiscal 1993 budget supplemental will allow the promise of relief from excessive cable television rates that Congress passed over President Bush's veto last fall to become a reality. I am enclosing an article from Thursday's Washington Post which describes efforts by some in the cable industry to deny consumers the benefits of this law by taking advantage of the lack of resources at the Commission. I urge you to help us provide consumers with the relief voted on by Congress in the Cable Act by ensuring that the Act can be successfully implemented by the FCC.

Thank you for your consideration of this important request. Please contact me directly or have your staff contact Kristan Van Hook (Ext. 6-2424) if you have any questions or need additional information.

Sincerely,



Edward J. Markey  
Chairman

Enclosure

cc: The Honorable Neal Smith, Chairman  
Subcommittee on Commerce, Justice, State, and Judiciary  
Committee on Appropriations

# Cable Firms to Battle Rate Cuts

## FCC to Be Flooded With Hearing Pleas

By Paul Farhi  
Washington Post Staff Writer

The cable TV industry, seeking to block government-ordered rate cuts, is preparing a counterattack against the federal bureaucracy.

In an effort to thwart a law passed last fall that would roll back cable prices, the industry's most powerful executive said yesterday that cable operators will petition the Federal Communications Commission en masse in coming weeks to request individual hearings on the legally mandated price cuts.

effect of thousands of these cuts, said John Malone, chief executive of Denver-based Tele-Communications Inc., would be to overburden the federal bureaucracy and delay implementation of the rate cuts, and provide the industry with a legal justification to charge higher, not lower, prices.

"My guess about the whole thing is that [the industry] will end up swamping the FCC with cost hearings," Malone said. "When the smoke clears, there will be higher rates in most cities."

The FCC's interim chairman, James H. Quello, rebuked the cable industry for its tactics. "They lost in Congress, they've lost in the courts, so now they're trying to take advantage of a big administrative burden," he said. "If they are seen as flaunting the intent of Congress while we are short-handed here, that might not be the smartest move, politically."

The new cable regulations permit municipal and federal officials to roll back rates by as much as 10 percent to 15 percent in communities where a local cable operator's prices exceed

a complicated "benchmark" announced by the FCC earlier this year. The agency estimates that 75 percent of the nation's 57 million cable households would see some reduction in the cost of cable by fall.

However, the cable law permits companies to request a hearing before the FCC if they can show that

# Cable Industry to Counterattack on Rate Cuts

CABLE, From B12

their costs of doing business will be higher than the benchmark allows.

Malone was joined in his comments by the industry's largest trade group, the National Cable Television Association.

"By ordering an industry-wide rate rollback without analyzing existing costs and profitability, the commission has left itself open to a huge number of cost-of-service hearings, which they are totally unequipped to handle," said Jim Mooney, the group's president. "These chickens

will come home to roost."

It is unclear whether the industry can succeed in postponing the start of rate cuts. In an effort to limit bureaucratic foot-dragging, the FCC late last week denied an industry request that any price reductions be delayed until operators exhaust their appeals.

However, cable companies can still make the cost-of-service argument to local regulatory officials, who are charged with overseeing prices for the "basic" package of programs. And Quello acknowledged that the FCC faces a "mammoth" administrative task in judging the appropriateness of rates charged by nearly 11,000 operators for a package of programs known as "expanded basic."

Quello said the cable industry was creating a political climate in which Congress might retaliate by permitting the telephone industry to enter the cable business. He said the commission could extend its current freeze on cable prices to an indefinite period from 120 days, if it needs time to sort through "an avalanche" of industry filings.