Important: place in permanent file

Press Statement by Chairman James H. Quello

November 16, 1993

This unfortunate statement by TCI management typifies the attitude of cable companies engaging in creative pricing and rate increases to evade the intent of congress and the FCC.

There is little doubt that the cable industry has an economic stake in discrediting the Congressional Act they vehemently and unsuccessfully opposed.

We will investigate to determine which rate increases represent culpable evasions of Congressional intent or which rate increases, though unwelcomed, were legally permissible. It may be necessary for the FCC to initiate action or recommend legislation to close loopholes and correct unintended consequences.

Cable companies must remember that Congress responded to the public outcry against excessive rate increases and monopolistic practices by approving the Cable Act with a 73-18 vote in the Senate and an overwhelming voice vote in the House. The vote overriding the Presidential veto was an impressive 308 to 144 in the House and 74-25 in the Senate. Also noteworthy is that Senate Republicans supported the override of the Presidential veto by a vote of 24 to 18.

The FCC is dedicated to assuring consumers that the Cable Television Consumer Protection and Competition Act of 1992 remains true to its name.

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787

TCI Memo Called for Price Hikes

Blame Re-Regulation, Managers Were Told

By Paul Farhi
Washington Post Staff Writer

The nation's largest cable TV company urged its managers to "take advantage" of a new federal law and raise their prices—and then lay the blame on Washington.

A top executive of Denver-based Tele-Communications Inc. (TCI), which serves the District and has 10.4 million subscribers nationwide, outlined the company's policy in an internal memo, according to a copy obtained by The Washington Post. The memo was dated Aug. 20, 11 days before new cable rate rules took effect.

Barry Marshall, chief operating officer of a TCI subsidiary, instructed system managers and division

"The best news of all is, we can blame it on re-regulation and the government now."

— TCI executive Barry Marshall, suggesting higher service rates

vice presidents in his memo to raise rates for various "transaction" services, such as customer-service calls, VCR hookups and cable hookups. TCI had provided these services free or at nominal cost.

"We have to have discipline," wrote Marshall. " . . . We cannot be disuaded [sic] from the charges simply because customers object. It will take a while, but they'll get used to it. . . .

"The best news of all," added Marshall, "is, we can blame it on re-regulation and the government now. Let's take advantage of it!"

Both cable companies and the Federal Communications Commission

See TCI, C7, Col. 1

THE WASHINGTON POST TUESDAY, NOVEMBER 16, 1993

TCI Memo Reveals Pricing Strategy

TCI, From C1

have come under fire in recent weeks in the wake of new cable TV price rules that went into effect Sept. 1. Although touted as a way to bring down the rising cost of cable TV, the new rules written by the FCC have in some cases had the opposite effect. Many cable operators have raised charges for their services, leading to complaints that the FCC left "loopholes" in its rules.

The cable industry also has criticized the new rules, saying that they pose an onerous regulatory burden that will cut deeply into industry revenue. During the congressional debate last year, TCI and its chief executive, John Malone, were among the staunchest opponents of the bill. In recent months, however, the company has moderated its tone, saying publicly that it is actively working to accommodate all of the regulatory changes.

TCI's Marshall did not back away from his memo yesterday. "My message to my people is that there are new rules, new economics in this business. There are things that we have not charged for that we can, and we should start making sure we have the discipline to charge for them."

He added, "I was being candid about the facts of life in an internal memo. If I was saying that publicly, I would have said it more artfully. But it is what it is."

Asked for a response yesterday, FCC interim chairman James Quello called Marshall's memo "unfortunate."

He said it "typifies the attitude of cable companies [that are] engaging in creative pricing and rate increases to evade the intent of Congress and the FCC. There is little doubt that the cable industry has an economic stake in discrediting the congressional act they vehemently and unsuccessfully opposed."

Quello said yesterday that the FCC will investigate to determine which cable industry rate increases represent "culpable evasions" of Congress's intent and which are legal. It may be necessary, he said, for the FCC to initiate action to close loopholes in the law.

TCI last month announced a $26 billion merger with Bell Atlantic Corp. to form the largest cable TV and telephone company in the world.

Separately yesterday, TCI reported a net loss of $55 million for the third quarter, compared with earnings of $63 million in the year-ago period, Bloomberg Business Ne reported.

TCI blamed the loss on a $1 million charge against earnings cause of changes in its federal come tax rate.

It also cited the rate rollback September from the new federal ble rules, which the cable syste operator said hurt its revenue a cash flow growth. TCI said the r rollback lowered subscriber bills a majority of its customers.

Despite the rollback in basic ca rates, revenue for the quarter rose percent to $1.04 billion, from $8 million for the same period last yea

For the nine months, TCI said ea ings were $29 million, versus $39 lion for the first nine months of 19

New York Times
Washington Post
The Wall Street Journal
Los Angeles Times
Washington Times
Financial Times
USA Today ✓

DATE: 11/16

PAGE 1B

TCI MEMO: A Tele-Communications Inc. executive urged TCI managers in an Aug. 20 memo to "take advantage" of new federal cable TV regulations to raise prices on services such as hookups and customer-service calls, *The Washington Post* reports today. Barry Marshall, chief operating officer of a TCI subsidiary, also suggested blaming increases on federal rule changes. Federal Communications Commission acting chief James Quello said the FCC may be forced to close any loopholes in the new rules.

2

DIGEST

DOW
3710.77
UP 33.25

DETAILS ON
THIS PAGE

BONDS
30-YEAR TREASURIES
6.16% YIELD
+ 0.01

DOLLAR
VS. JAPANESE YEN (N.Y.)
106.75 YEN
+ 0.05 YEN

Tele-Communications apologized to the FCC for portions of a memo by one of its executives. The memo, obtained by The Washington Post Monday, ordered TCI's cable TV managers to raise prices for some services and blame the increases on the new federal cable law. TCI denied blaming the government and said in a statement that the tone of some of the memo was "regrettable."

The Greater Washington Board of Trade changed the titles of its top two officers. Beginning in January, the person from the business community elected each year to head the area business organization will be designated chairman, rather than president. The top-paid staff member, John R. Tydings, will be president rather than executive vice president.

General Motors said it expects to break even in its North American operations in 1994, reversing four years of multibillion-dollar losses in its largest division. The announcement sent GM stock climbing $1.25 a share to $52.75 on the NYSE.

Nostalgia Network, a cable television channel facing takeover bids, said its board set up a committee to explore the possible sale of all or part of the company. Competing for the network,

See DIGEST, G2, Col. 1

- *American, flight attendants try to avert strike.* *Page G2*
- *Stidham Tire closes eight of its 15 area stores.* *Page G2*

Washington Post, nov 17, 1993

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Today

Quello Highly Critical

TCI APOLOGIZES FOR TONE OF RATE-HIKE MEMO, BUT INVESTIGATION SEEN

TCI apologized to FCC for memo suggesting that cable systems increase rates for customer-service calls and blame them on reregulation. FCC Chmn. Quello, however, said memo "typifies the attitude of cable companies engaging in creative pricing and rate increases to evade the intent of Congress and the FCC." Quello repeated plans for Commission to investigate rate increases and possibly take action to close "loopholes."

TCI systems should raise rates for "transaction" services such as installations and VCR hookups, TCI Cable Group COO Barry Marshall said in Aug. 20 memo to division vps and system managers. Before reregulation, systems often charged little or nothing to install cable, assuming that cost would be made up by higher rates, but new rate rules say no charges can exceed costs plus reasonable profit. In memo, copy of which was received by *Washington Post*, Marshall said: "We have to have discipline... We cannot be dissuaded from the charges simply because customers object. It will take a while, but they'll get used to it. The best news of all is, we can blame it on reregulation and the government now. Let's take advantage of it."

House Telecom Subcommittee Chmn. Markey (D-Mass.) called memo "an unusual glimpse into the inner workings of the cable giant TCI. Cable companies have used any number of excuses to raise rates in recent years and we thought we had heard them all, but this memo shows a new level of disrespect for both cable customers and the government regulators charged with enforcing the law." Markey again asked FCC to "carefully scrutinize" rate hikes, and said factors such as memo should be used to select targets for inquiry.

Tone of memo was "regrettable," TCI said Tues. But it defended content, saying that it had reduced rates for 80% of its customers and "has not engaged in a pattern of blaming either the FCC or Congress for increases." TCI said Cable Act requires operators to charge on actual cost basis, although consumer groups point out that Act doesn't prohibit lower-than-cost charges. "Consequently, prices for installations and some individual services could appear higher, while in fact overall rates remain the same or are actually lower," TCI said. "It was this phenomenon that Mr. Marshall was trying to explain in his memo."

Quello called TCI memo "unfortunate" and said there's "little doubt that the cable industry has an economic stake in discrediting" Cable Act: "Cable companies must remember that Congress responded to the public outcry against excessive rate increases and monopolistic practices" of cable industry. He said FCC will investigate hikes to determine which are "culpable evasions" of Act: "It may be necessary for the FCC to initiate action or recommend legislation to close loopholes and correct unintended consequences." Commission earlier said that as many as 30% of cable subscribers may have higher total bills as result of rate changes caused by Act, and as many as 70% may have lower bills.

Senate Antitrust Subcommittee Chmn. Metzenbaum (D-O.) read memo at start of Tues. hearing on media mergers, saying he thought it signified that Congress "didn't do a sufficiently adequate job" on cable bill last year. He said Congress may have to close loopholes.

"Truth is a total defense," CATA Pres. Stephen Effros said in response to TCI memo. "Of course we wish it had been phrased differently, but the pain of rate restructuring was caused by the federal government. We don't like it, but we have to recover the revenue we lost from programming services from things that we used to cross-subsidize."

Malone and Diller To Testify

AT&T CHMN. ALLEN QUESTIONS BELL ATLANTIC/TCI MERGER

AT&T Chmn. Robert Allen tiptoed up to line of opposing Bell Atlantic (BA)/TCI merger, but in testimony to Senate Antitrust Subcommittee Tues. he didn't cross it. Instead, he raised questions about merger and history of competition in cable and local exchange industries. Hearing was 2nd in series by Subcommittee on media mergers. TCI CEO John Malone and QVC Chmn. Barry Diller have agreed to testify at next session, although date hasn't been set, Subcommittee Chmn. Metzenbaum (D-O.) announced.

Metzenbaum stepped up his rhetoric in opposition to BA/TCI deal, saying merger could "jeopardize future competition between telephone and cable monopolies. The fact is that these monopolists have been positioning themselves to compete against one another for years. This wave of mergers could put an end to any hope of competition between them and create a cartel of telecommunications conglomerates." Allen picked up on that theme in his testimony, saying that while AT&T and McCaw participate in competitive businesses, Bell Atlantic and TCI are monopoly service providers that "represent the most likely potential future competitors in each other's markets." Merger would be "very positive development if it would spur competition between cable and local telephone companies," Allen said.

But Allen also said he was doubtful that competition would develop. While not questioning intent of Bell Atlantic or TCI, he said that neither industry had "demonstrated a propensity to compete." BA has said it intends to use cable networks it purchases from TCI to compete with local exchange carriers. After hearing, Allen said that plan might sound fine "in theory," but reality of situation is that it would "create a duopoly at best." Cable and local telephone businesses have "no incentive, no history and no experience" in competition.

Other witnesses echoed theme. Mark Cooper, research dir. for Consumer Federation of America, said that to believe industries he characterized as anticompetitve would "suddenly be converted into vigorous competitors requires a leap of faith that responsible public policy-makers simply cannot make. In truth, the merger can only make matters worse." Deal would increase TCI's power over programming by combining its market power with Bell Atlantic's money, creating "massive potential for cross-subsidy," Cooper said. Media Access Project Exec. Dir. Andrew Schwartzman raised questions about deal, asking what benefits would be gained from transforming telephone companies into TV producers. He said BellSouth, which is to take over QVC's role in Paramount takeover, recently announced new downsizing, but "will BellSouth help Paramount make better movies or publish more books?"

One observer at hearing, Bell Atlantic Pres. James Cullen, disagreed. He said in interview that he recognized that "some people, those who come from a common heritage, have doubts about how aggressively we will compete." But Cullen said merger was "a clear signal of our intent to compete across the country. We've done more than signal intention. We intend to build full-service networks."

Defending AT&T merger with McCaw, Allen said he expected his company would offer bundled services with McCaw, but with customers having choice to sign up with other long distance carriers. He said 3-5% of cellular calls are long distance. He said again AT&T had "no intention" of entering local service, and commented that 99% of cellular calls are routed through local exchange.