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1990

PUBLIC HEARING

before

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

"The Consumer and Cable Television"

March 7, 1990
North Bergen High School
7417 Kennedy Blvd.
North Bergen, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman David C. Kronick, Chairman
Assemblyman Neil M. Cohen, Vice-Chairman
Assemblywoman Marion Crecco
Assemblyman Walter J. Kavanaugh

ALSO PRESENT:

Senator Thomas J. Cowan

David L. Sallach
Office of Legislative Services
Aide, Assembly Consumer Affairs Committee

* * * * *

Hearing Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
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New Jersey State Library

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David C. Kronick
Chairman
Neil Cohen
Vice-Chairman
James McGreevey
Marion Crecco
Walter Kavanaugh

New Jersey State Legislature
ASSEMBLY CONSUMER AFFAIRS COMMITTEE
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NOTICE OF PUBLIC HEARING

The
Assembly Consumer Affairs Committee
will hold a public hearing on
Wednesday, March 7, 1990 beginning at 7:00 p.m.
North Bergen High School
7417 Kennedy Blvd., (Corner of 76th st.)
North Bergen, New Jersey

The purpose of this public hearing is to discuss the following:

"The Consumer and Cable Television"

Since the enactment of the federal Cable Communications Policy Act of 1984, which deregulated cable television operators and providers, critics have charged that the industry has had almost total freedom in determining the services they offer and the rates they charge their subscribers. Recognizing that federal law preempts certain State action, the committee intends to review those options which are available to the State and to seek innovative approaches to benefit and protect New Jersey's cable television subscribers.

The public may address comments and questions to David L. Sallach, committee aide, and persons wishing to testify should contact Selena Lewis, secretary, at (609) 984-0231. Persons presenting written testimony should provide 10 copies to the committee on the day of the hearing.

C O M M I S S I O N E R N I C H O L A S S A C C O: I welcome you to North Bergen. However, tonight we're the guests, because we're now hosting the Assembly Consumer Affairs Committee. Today with us are our fellow Commissioners, Michael DiGiovanni, Commissioner Tom Liggio, Commissioner Frank Gargiulo, our Surrogate, Don DeLeo, and also Freeholder Ascolese.

Senator Lautenberg is not coming. He's in Washington, and his aide, Mitch Ostrer, is here representing him. A man who once represented North Bergen, and he did an excellent job and he is very, very well known by all of us, is Senator Chris Jackman.

I will now turn this meeting over, because the format is, this is not a Commission meeting. This is an Assembly Committee meeting.

And I turn it over to the Chairman, North Bergen's David Kronick.

ASSEMBLYMAN DAVID C. KRONICK (Chairman): Thank you very much, Commissioner Sacco. Good evening, everybody.

I first would like to express my sincere appreciation for the cooperation and assistance that I received from the Commissioners in arranging this evening's event.

Now I would like to introduce the Committee members. On the Minority side serving with us, Assemblywoman Marion Crecco, 30th District, Essex County. Next to her is Assemblyman Walter Kavanaugh, 16th District, Morris and Hunterdon Counties. Serving in the Majority, Assemblyman Neil Cohen, 21st District, Union County. The other Assemblyman, Jim McGreevey could not be here tonight, but we have Senator Jackman filling in. Thank you, Senator.

I want to give my sincere appreciation for the people on the staff who made this possible: On the Minority side Tom Damm, and a special thanks to my Majority man, Ken Murphy, and also the OLS representative, Dave Sallach. Thank you very much, gentlemen.

And now for the business at hand. The Assembly Consumer Affairs Committee is here tonight because of the growing concern and frustration of consumers throughout the State that the cable industry has grown into a monopoly with no competition or government control.

Today, there are over 1.7 million cable television subscribers in New Jersey, which has earned us the reputation as the most heavily cabled State in the nation. During 1988, there were 12,000 complaints filed against cable television companies in New Jersey, and unfortunately, this figure is on the increase. According to the Office of Cable Television, consumer complaints for the first six months of 1989 were almost 25% higher than for the same period in 1988.

As I speak with people in my district and across the State, I repeatedly hear complaints about poor service, confusing billing, lack of input in programming, high rates, and representatives who will not return their phone calls.

Personally, I'm very concerned about the poor quality of service that subscribers receive. And to add insult to injury, rates in New Jersey have increased up to 40% since Federal deregulation in 1984.

What has the consumer received in return? Well, on another concern, an alarming number of sporting events are migrating to cable. Will the '90s be known as the decade that all fans must pay to watch sporting events?

Presently, right here at home, honest subscribers in some municipalities in Hudson County are going to be penalized with rate increases for a scrambled signal, and will be penalized with rate increases for using their cassette recorder.

In closing, this Committee recognizes that Federal deregulation of the cable industry preempts certain State action. However, this Committee intends to review those options which are available to the State and to seek innovative approaches to benefit and protect New Jersey's cable television subscribers.

That's the formal part of my presentation. We're now ready to begin with the first speaker, Senator Chris Jackman.

S E N A T O R C H R I S T O P H E R J. J A C K M A N:
Thank you very much. I'm going to be very brief. I've been working with Dave and with his Committee, and I commend him for having called us here. We've had some public hearings in Westfield and in Hoboken, and I see that cable television is well represented here today with the people who are very knowledgeable.

I've made some inquiries, and I think it's important that you know this. Of course, you know that cable television has been deregulated by the Federal government. Consequently, that hamstring, more or less, the State government. The Board of Public Utilities can't do anything about raising rates. I spoke to the Board of Public Utilities. The FCC -- they don't seem to be occupied or worried too much.

I spoke with Matt Rinaldo who is a Congressman. He's got some bills pending -- there is a bill pending in the Senate and there's the possibility that one will be introduced in the House regarding price control. Doesn't mean anything else.

Right now, I have cable TV in Manasquan, and I've got cable TV in Westfield. I pay \$1.30 less in Manasquan than I do in Westfield for the same two sets. A possibility might be an error was made, or they might have gypped themselves out of a buck-and-a-half. I don't know.

One of the things that I checked on, and I think that we have some input, statewide: no more 10 and 15 year contracts. Cable television will be controlled within the State on the basis of legislation that we wrote -- myself and Dave -- that the contracts will be no longer than three years with the possibility of a renewal term -- consecutive renewal -- for two more. No more 15 years and 10 years, because it's a monopoly.

Why is there a difference in basic vision TV in Guttenberg and their price, and cable TV in Jersey City with their price and Riverview? Why is there different prices throughout the State?

I've got two sets. I pay \$39.95. I get HBO. HBO, I think, is \$13.00 and if you've got the other set it's \$6.00, so that means I pay \$19.00 for HBO, and then you pay \$5.00 extra for your other set or whatever it may be. But anyway, the total price is \$39.95. Up in (inaudible) somebody pays \$37.95, two dollars difference.

Now, I don't know. I'm not going to criticize. The only criticism I've got is, why are you coming into my area when I'm paying what you asked me to pay, and then you're going to scramble my set? Why are you going to scramble my set?

Now, I'm not going to deny that there are chiselers in everything. You know that, and I know that. I'm amazed when somebody tells me, you're talking right now, this winter, Riverview, in this State, with their 37,000 members that they've got signed up has got to be bringing \$10 million or \$12 million income, coming in, with their monies. They're a \$10 million industry, \$12 million.

Now, that's not a big industry. Now, they're telling me that of the 37,000 that are paying, there's 9000 that are not paying. That's mind-boggling. I can't believe it.

Now, I would say to them -- and I've got great respect for them because I know some of these people, I've dealt with them in Trenton over the 23 years that I have been down there -- "Give me the names of the people and I'll give them to the Attorney General, and then we'll make sure there are no chiselers. In the meantime, don't scramble my set."

Now, we had a meeting in Westfield and two or three hundred people-- And the thing that amazes me more than anything else is, why do we have to pay when somebody else

steals? Why do you want me to pay? I don't want to pay. Leave my set alone. If you want \$40.00, I pay you \$40.00 -- \$39.95. I pay it.

Now I'm saying to you people, "Show me the people who are stealing from you, and we'll make sure the Attorney General takes action." We'll do that on our own behalf.

Now, I know you're going to get up here and ramble on and on and on and tell me about the 7000 or 8000 or 9000 people who are not paying, if you can show me the names -- give me the names of them -- we'll do our job as legislators. I promise you. Won't we, David?

ASSEMBLYMAN KRONICK: We sure will.

SENATOR JACKMAN: Thank you very much.

ASSEMBLYMAN KRONICK: Thank you, Senator Jackman. Our next public official will be Mayor Gattoni.

M A Y O R L E O G A T T O N I, SR.: Ladies and gentlemen, I'm going to be very, very brief. We're all here definitely opposed to the changes proposed by Riverview Cable, and we will take every avenue to prevent this from occurring.

This includes challenging them in a court to this end. We have also hired an attorney to aid us in our endeavor. You can rest assured that myself and my fellow Commissioners will cooperate in every way; also our Assemblymen and all the rest of the dignitaries.

So, once again, I want to thank you for being here this evening, and God bless you.

ASSEMBLYMAN KRONICK: Thank you very much, Mayor. The next speaker will be Commissioner Mike DiGiovanni.

C O M M I S S I O N E R M I C H A E L D I G I O V A N N I: Thank you Dave. I've been to a few of these meetings and-- I see Mr. Fischer here. Hi Joe. (negative audience response) No. No, no. That's not what we're here for. You'll get your chance after.

Senator Jackman brought up some good points about people stealing. That's fine. But I think I know the real reason why Riverview wants to scramble.

Let's take this scenario: You have TV; you have cable; you don't have the box. When one of those wrestling programs or pay-per-view comes on, you can't get it. You have to have the box. So what's the best way to have the box? To make everybody get the box that descrambles the signal. And everybody has to get the box, and 30,000 people are going to have equal access to pay-per-view at \$3.95 per movie. That's what I think is really happening.

I'm asking for myself, fellow Commissioners, and everybody here: Please, Mr. Fischer, if you can hold off scrambling, give us six months. Let's discuss it. Let's talk. You don't have to do it right away. You can wait six months. Thank you.

ASSEMBLYMAN KRONICK: Moving right along, our next speaker will be Commissioner Nick Sacco.

COMMISSIONER SACCO: Commissioners Gargiulo and Liggiio have asked me to speak on their behalf. We, in North Bergen, did a few things to date, none of which have been successful. We had a meeting with the Mayor and the Commission attorney, with cable TV representatives, and asked that they stop what they're doing, and we were rebuffed at that level. We have joined a lawsuit through the council of mayors and their protest, and again we were rebuffed. And we've now hired Seymour Goldstaub to represent North Bergen in a lawsuit trying to stop them in the courts. We're hoping to be successful in that area.

I'm going to report one thing, which a young woman wrote to me this week and indicated something which very few people know. In North Bergen, we rent cable TV space. They bid for a parcel of land, and they have set up their operations from North Bergen. I found it interesting that you knew about

this because she was almost reading the Mayor's and Commissioner's minds, because at this time we feel that in good conscience we can no longer rent to cable TV.

And our town attorney will be notified to send them a letter to this extent. They will get out of North Bergen on April 1.

ASSEMBLYMAN KRONICK: Thank you, Commissioner Sacco. A few surprises tonight.

Our next speaker will be Surrogate, Don DeLeo.

S U R R O G A T E D O N A L D W. D e L E O: Mr. Chairman, at the outset I would like to thank you and your Committee for affording those of us who live here in North Bergen and are subscribers to Riverview Cable this opportunity to express ourselves. Too often, we the customers don't have anywhere to turn, and we need to know that our elected representatives in Trenton will listen to us. As you are saying, and as Senator Jackman said before, "We'll do something about it to help the people."

I would also like to thank our Mayor and our Commissioners for being responsive to the many complaints the town hall has received: for taking the initiative for establishing this town meeting; for taking the initiative for retaining Seymour Goldstaub to fight on the legal front on behalf of the residents of North Bergen.

And I would say this to the representatives of cable television: So far you have rebuffed our township officials, as we have just heard from Commissioner Sacco. Let me warn you. We, the people of North Bergen, will not be rebuffed by you. We will ultimately rebuff you.

Senator Jackman, you have hit the nail on the head when you said, no more long-term monopolies. Since government has given up control, we, the people, through you -- through Dave Kronick and our other representatives in Trenton -- must take back that control for the benefit of the people; for the benefit of the paying public.

And we know that through your assistance, through our Assemblyman Kronick's assistance, we will get legislation that says that those who have a franchise are not independent of the people. They serve the people. Yes, they will make a profit, but they will not take and cut our throats and make an unfair profit. And we know you will give us that legislation.

Assemblyman Kronick introduced me as the Hudson County Surrogate, and that I am, but I am also here under another hat. Like many in this room, I am a representative of a large group of people. I am the President of Park Hudson Tenants' Corp. Just as we have the leaders of our town senior citizens' group, the leader of our tenants' community, the leaders of our homeowners--

So I say to the representatives of Riverview Cable, when you look out into this room you're seeing the representatives a township. You see the people of North Bergen. We are all here to state a very simple case. We want to be fair, but you have to be fair in return, and we do not see this as fairness.

And each of the speakers who I am sure will follow me, you will hear from them why we, the customer, are disenchanted. We cannot wait and stay home from work for servicemen who never show up. We are tired of having our living rooms, our dinning rooms, and our bedrooms being increasingly turned into electronic workshops with evermore wiring, evermore boxes, evermore equipment.

And I'll also say to you that I, as one of your customers, and I know that each one of you as customers are tired of the fact that we never see a credit on our bills for the many interruptions of service that we know--
(indiscernible; crowd noise)

So we think you are the ones who are scrambled. We don't need scramblers. We say to you, unscramble yourself, please, for the betterment of your customers.

There are many other speakers to follow, so in closing, I will say this to you, representatives of cable TV. As each of our elected officials -- and I as an elected official -- well understand what you have done through your arrogance in terms of dealing with the public, in dealing with us, the paying customer is this: You have unleashed the greatest power on this earth. You have unleashed the people against you, and we will prevail. (applause from audience)

ASSEMBLYMAN KRONICK: We've got a lot of speakers, so please keep the applause down. Thank you, Don. It was a rousing speech.

Freeholder Vinnie Ascolese?

F R E E H O L D E R V I N C E N T F. A S C O L E S E:
(witness speaking off microphone) First of all I would like to thank you, Assemblyman Kronick, and your Committee and the people of your Committee who serve on the councils of other districts. We are certainly glad that you could come to our fine town this evening. And I would like to thank our town fathers for putting together something of a fight to prevent this.

I've always been lead to believe that America was a free land, a free place; to think that we would always be taken care of if we did our share of life. I had a senior citizen speak to me who purchased a VCR that they could barely afford. Now, they're worried that if they can't come up with a few more dollars a month, they won't be able to use that VCR because they won't be able to have a scrambler.

Mr. Jackman, our Senator, said that he felt that it was very important to prevent the scrambling. He mentioned that he pays \$39.95 a month. I pay over \$50 a month. I also have had interruptions, and I have never seen credit. I have called for service. I have called for pay television to watch films that have not come on, and I did not get credit; and like a fool, I paid it.

If there is a person, as Christopher said-- If there is a person that owes you money, if there is a person out there who steals from you, that's not our job to police those people. You're in business, you police them.

I'm going to tell you two little stories. Three years ago, right in this room, Hartz Mountain -- I'm sure you know who they are -- Hartz Mountain came into North Bergen and said, "We're going to build a heliport." Thirty people came here. The New Jersey Department of Transportation sat right here. Take a ride down 83rd and beyond Westside Avenue, you won't see a heliport. You know why? Because those thirty people stood up to Hartz. And because those thirty people had the guts to say, "You're not going to build it. You're banned in this, our community. We don't want your heliport. Take it somewhere else." That was the first example that I wanted to tell you about.

People of North Bergen are winners. They don't give up. They fight. This is unfair. We're being treated unfair, and we don't like it. And when we don't like something, then you have a problem. You may get away with it elsewhere, but right now you-- (indiscernible; due to audience applause)

I would like to say that the people of Hudson County are fair and decent. I could say a lot of nice things about people from Hudson County. But one thing we learned growing up. Anything that you get, you're going to fight for. Anything that you get, you're going to fight for. Because we're from here and you're not, we are going to be the winners.

The State came in-- They drew up elaborate plans with their architects. And they were going to take away 22 homes down on Union Turnpike. And the Commissioners had a meeting and we attended that meeting. And in one night we were able to form a committee; dealing with the State Department -- the New Jersey Department of Transportation. They were going to make the community better for the people from Essex and Bergen

Counties. Then we fought them. We were able to get a million-- The State Department changed. The State Department said, "These people are right. They're not a bunch of animals. They are people who are fighting for their rights."

These people were from North Bergen-- We turned it around. Instead of losing 22 homes, we're probably only losing two homes. We changed their plans. We hired our own architects-- North Bergen is not afraid to stand for the people; neither are the Freeholders of Hudson County. So if you want a fight, gentlemen, you are going to get it. (applause)

ASSEMBLYMAN KRONICK: Thank you, Vinnie. We have a lot of speakers. I would appreciate it if we could keep the applause down. It is not a rally. I know how you feel. It's an emotional issue. I can sense it. But please, this is a hearing on a State level, so please cooperate.

Our next speaker will be Director Celleste Fasone, from the Office of New Jersey Cable TV.

I appeal to you to please give the people the chance to speak and be heard.

Ms. Fasone, the handheld, please. (referring to the microphones)

C E L E S T E M. F A S O N E: Mr. Chairman, members of the Committee, Senator, Mr. Mayor, and Commissioners.

Like this hearing tonight, inquiries are taking place at the Federal level as you know amid complaints that a deregulated cable industry has spawned an environment of unresponsiveness by some cable operators to consumers' needs and consumers' interests. To that end, it would best serve this Committee's needs to offer the New Jersey experience from the perspective of the Office of Cable Television, authorized to recommend regulatory measures to our Board of Commissioners and the Board of Public Utilities.

I will attempt to identify for you tonight the chief areas of complaints from subscribers in New Jersey, options for

regulatory response, and legislative measures as a regulatory tool.

We project that our 1989 totals will evidence an increase of about 20% in the overall number of complaints: from nearly 12,000 in 1988 to almost 14,000 in 1989.

Beginning with the highest percentage of complaint categories: billing, telephone accessibility, outages, and lack of enforcement authority, together comprise about 40% of our yearly complaint totals from subscribers.

Thirty-five percent of New Jersey consumer complaints speak to technical complaints on reception and quality of service, signal carriage such as the nonavailability of a particular network, and auxiliary equipment.

Following that, 15% of our complaints are rate related. And there is an equal distribution between complaints about the cost of basic service and complaints about the cost of other services and fees.

Lastly, about 10% of our total complaints address the availability of cable service in New Jersey.

In August of 1989, just after the first Federal General Accounting Office report was issued on national cable rates and services, the Office of Cable conducted a parallel study of the State cable landscape. We understand that we're the only State in the country to have completed this, and shared this study with the National Association of Telecommunications Officers and Advisors' Board. This study was also distributed to our appropriate Federal legislators. I have a copy for each member of this Committee, which I have distributed to you.

The study will provide you with an analysis of the overall trends in cable television since deregulation in the areas of rates, channel increases, revenues, consolidation and its effect on rates, ad revenues and rates in classical versus competitive markets throughout the State where the most grade B contours fall, and in the absence of interfering signals.

It will indicate an increase in rates between 10% to 40% for 75% of New Jersey subscribers with an increase on average of about two channels per system since deregulation.

It will show that 29 sales have occurred since deregulation, and purchased company rates are slightly higher per month by about \$1.70 for basic following a purchase. Reconnect fees have risen about 13.5% since deregulation, and overall cable subscription is up about 16.5%.

As a point of fact, the average subscriber in New Jersey pays \$15.33 per month for 32 channels. There are about 1.7 million subscribers in New Jersey where cable is in about 62% of our homes. This is about 15% higher than the national penetration rate, which is estimated at about 50%.

In addition to our report on cable, assessing trends and increases since the Cable Act went into effect in December of 1986, we also have for you tonight a breakdown of the concentration of subscribers in the State currently, and a table outlining concentration and consolidation since deregulation by the nine largest multiple systems operators since deregulation. A current account of rates for every cable system in the State is also provided to you in the packet we distributed.

Some of the areas of jurisdiction are explained in our newsletter, which I have also attached to that packet. Briefly, this is a part-- The newsletter is a part of our outreach program which the Office formed about 20 months ago to heighten communications with our elected officials on the State and local level, and announce our readiness to assist the municipalities as we enter the peak era of renewals in the State through the year 1992.

The purpose of these handouts this evening is not so much to tell you what we've done, but rather to assist you in deciding what you may wish to do for the cable consumers in the State of New Jersey.

Our principal thrust as an Office has not only been municipal assistance. We have just spent about six months and expect to spend at least three more months on rules and regulations of the Office of Cable Television, which as you may know through our mailings to you, will expire on July 29, 1990.

Nearly 70 people attended, and more than a dozen testified at our first hearing on our rule preproposal regarding the 40 new or amended rules we are proposing in order to promote a more even subscriber-friendly landscape statewide.

Some of the areas we've identified in possible need of change include: Itemized billing, 24-hour in person phone answering, AM/PM service calls, availability of parental locks, and devices for the hearing impaired, requirements for deposits returned expeditiously, and billing errors corrected in timely fashion with interest to accrue otherwise. Requirements for maximum response time on installations, technical on-call emergency assistance to plant on a 24-hour basis, are additional areas of subscriber rights on which we have asked and elicited comments.

Additionally, on the matter of public access: We have found disputes over the use of access channels and may concurrently develop a rule for operation of these access channels, although the Board, through the Office of Cable Television, determined the 555 cabled communities, cable access channels' needs may best be determined locally through the renewal process. This does not mean the Office will not continue to study the minimum number of access channels, and as I said, recommend to our Board rules for the use, management, operation, and funding of these access channels.

There are some consumer issues which are not addressed in the preproposal. When issues are beyond the scope of our regulatory jurisdiction, the Office can suggest to our Board that they recommend legislative action. Issues which may be appropriately addressed in the Federal arena include rates and

programming; two key consumer issues. However, as the franchising authority in the State and one of only nine states which has any statewide regulatory framework, we should and we do, share any empirical data that assists in the formation of Federal policy.

On the issue of competition, the Board has previously spoken in favor of competing cable systems but with great concern for encouraging genuine competition and discouraging greenmail, which is applicants with no intention to follow-through. The Board has stated that second entrants should be subject to the same standards as the initial franchisee in regard to such issues as the estimation of pole plant costs, particularly important in these cases to assess the disruption involved for the utilities, for the other cable companies, and the community in general.

Additionally, the Board filed comments in October of 1988 supporting telephone ownership of cable systems, provided it is done with adequate safeguards to prevent cross subsidization and provided telephone companies are not permitted to acquire existing cable systems and are required to receive certificates of approval. The Board is currently reassessing this policy.

On the issue of franchise fees, there is more than one consumer opinion. During the past year, the Office of Cable has found increased desire on the part of some municipal committees and educational entities for lifting the franchise fee above the State's 2% basic revenue cap. Federal law permits the fees to be as high as 5% of the gross revenues. The original State Cable Television Act established municipal franchise fees at 2% of revenue for basic monthly service.

The Act also permits up to an additional 2% of gross revenues for a State assessment of cable operators to fund the operation of the Office of Cable Television.

These amounts were based on FCC limits then in effect which controlled the cap at the time to the State in the early 1970s. Since, in 1984, Federal law expanded the total fee cap revenue base to gross revenues and the allowable percentage to 5%.

It is within the discretion of the Legislature to revise the franchise fees. There are currently bills in the State Legislature to increase the franchise fee.

Because the OCTV operates on a State assessment, that 2% must be left intact to allow continued operation and perhaps future expansion of the Office's duties. Thus, the effective maximum available for municipal purposes would be--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Enough. This is dull stuff.

ASSEMBLYMAN KRONICK: Please, this is a State Office. Let's give respect to the speakers.

MS. FASONE: --3% of gross revenues. Currently, under Federal law, any franchise fee can be passed directly through to subscribers. Therefore, the Office has been and is concerned about recommending to the Board what could become a rate increase and an issue of subscriber controversy.

In regard to the distribution of franchise fees collected: In some instances, legislation is being considered that would require local municipalities to spend 50% of all franchise fees on cable TV related purposes or refund them to the subscribers. Under the law now, fees can be used for any general purpose fund.

Also in the area of legislative options, the Office has no jurisdiction over satellite master antenna television; SMATV systems. While we see the existing State act as giving authority over SMATV systems, Federal law preempts local regulation, unless the cable system uses the public rights of way.

However, while we may not require the franchising of these operators, legislation can perhaps work towards adopting consumer protection standards to set minimum service standards to counter the frustration we encounter from dissatisfied SMATV subscribers. (audience disturbance)

ASSEMBLYMAN KRONICK: Please, order, order. Please let's have order, the speaker's almost finished. Let's extend the courtesy, please. Please--

MS. FASONE: Mr. Chairman, let me summarize, if I may.

ASSEMBLYMAN KRONICK: Please, this is North Bergen. We're a courteous group of people here. Please.

MS. FASONE: Let me summarize, Mr. Chairman. I believe--

ASSEMBLYMAN KRONICK: Could you please-- We're going to have the summary now.

MS. FASONE: I believe this is a crucial time for participation in these consumer issues. For example, this morning a petition was filed with the Board on behalf of North Bergen on the scrambling question. As a pending matter which will come to the Board for decision, it would be inappropriate for us to make any public comments at this time.

In addition to the studies we provided you, your own thoughts on the legislative action will help in shaping the cable landscape in our State. I offer the assistance of my Office in identifying aspects of regulation which work to the disfavor of cable consumers. Since we both have monitoring oversight responsibilities, I believe we can make informed decisions regarding the evolution of cable television if we share this pertinent data. Together we can perhaps ease the tension in the inherent two goals: delivery of the highest level of service to the public, while being responsive to consumer concerns regarding price and quality.

I thank you, Mr. Chairman, and members of the Committee for the opportunity to address you tonight, and I

look forward to working with the Committee and using the Committee as another source of public input.

ASSEMBLYMAN KRONICK: Thank you very much, Director. Would you yield to some questions, please?

MS. FASONE: Yes.

ASSEMBLYMAN KRONICK: Do any of the Committee members have questions? (no response) I have a few if I may, please?

MS. FASONE: Yes.

ASSEMBLYMAN KRONICK: Could the State enact legislation which would prevent cable television subscribers (sic) from surcharging subscribers who use video cassette recorders?

MS. FASONE: I'm sorry, Assemblyman. To prevent cable subscribers--?

ASSEMBLYMAN KRONICK: From surcharging-- Providers, I'm sorry -- who use video cassette recorders-- Is that permissible?

MS. FASONE: Any rate related matter has been preempted by Federal legislation, the Federal Act of 1984 which went into effect in December of 1986. The State Office of Cable Television, Board of Public Utilities is preempted from any rate regulation regarding basic rates and regarding services and fees, rates for services and fees. We're preempted by Federal law from doing this.

ASSEMBLYMAN KRONICK: Then you're saying that the Board of Public Utilities does not have the power to challenge rate increases by cable companies?

MS. FASONE: That's absolutely right, Mr. Chairman. We do not have the jurisdiction.

ASSEMBLYMAN KRONICK: Ladies and gentlemen, that's an important point to keep in mind, okay; very important point. And this is the way the situation is today.

Let me ask you one more question, please, Director. How many municipalities have franchise agreements that are due

to expire within the next three years? Would you happen to know that?

MS. FASONE: Within the next three years about 72% of all cable franchises will have been renewed at least once. We are renewing approximately 60 to 70 franchises yearly at this point, with another 60 to 100 coming into the three-year renewal term, on a yearly basis.

ASSEMBLYMAN KRONICK: May I ask you, how can a municipality deny renewals?

MS. FASONE: How can a municipality deny? The municipality may choose to deny or to grant consent on a local level. That has already happened in New Jersey. The process of denying or granting consent is a 36-month process, which the Office of Cable Television--

ASSEMBLYMAN KRONICK: Does Federal criteria--

MS. FASONE: --has formed a municipal assistance program to assist every municipality in New Jersey in guidance through the renewal process. Mr. Chairman, that 36-month process is federally mandated, not State mandated.

ASSEMBLYMAN KRONICK: Federally mandated, right. There's a question from Assemblyman Kavanaugh.

ASSEMBLYMAN KAVANAUGH: Since we're discussing Riverview Cable up here in North Bergen tonight: Do we have any idea through your Department, or anyone here, what it costs Riverview Cable to cable North Bergen; what their investment is, for example?

MS. FASONE: We are preempted from discussion of anything regarding Riverview Cablevision and the scope of the issue that you are seeking to address tonight, because of the open docketed matter.

ASSEMBLYMAN KAVANAUGH: All right. I understand, there's litigation on it. I can ask that question later if someone from Riverview--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Preempted by whom?

ASSEMBLYMAN KAVANAUGH: What she explained is there is litigation--

MS. FASONE: This morning North Bergen filed a petition with the Board of Public Utilities. It's now an open docketed matter.

ASSEMBLYMAN COHEN: You said, "Preempted from discussion."

MS. FASONE: Prohibited from discussion perhaps would be more correct.

ASSEMBLYMAN COHEN: Nothing can be discussed tonight at all on that specific issue?

MS. FASONE: Those issues which may impact the open docketed matter which was filed by North Bergen would be doing a disservice to each of the parties if we discussed that.

ASSEMBLYMAN COHEN: That's markedly different than preempted on question.

MS. FASONE: Only in respect to the Office of Cable Television, Board of Public Utilities.

ASSEMBLYMAN KRONICK: Director, let me ask you another question. I think it's an easier one. What percentage of complaints does the Office of Cable Television receive concerning program selection?

MS. FASONE: Program selection, I believe, falls into the category of about 34% of our complaints, if you're speaking, by program selection, about complaints about the cable company not carrying a particular programming service.

ASSEMBLYMAN KRONICK: If there are no other questions--

ASSEMBLYMAN COHEN: You mentioned that Federal law preempts State action in terms of rate.

MS. FASONE: Yes.

ASSEMBLYMAN COHEN: Are there areas that the State can act, aside from rate: that is method of operation, any type of ancillary services provided, if there are provisions which may violate antitrust provisions in State statutes? Exactly what are the parameters?

MS. FASONE: The jurisdiction of the Board, and the Office?

ASSEMBLYMAN COHEN: Correct.

MS. FASONE: Consumer protection standards--

ASSEMBLYMAN COHEN: And the Legislature?

MS. FASONE: Pardon me?

ASSEMBLYMAN COHEN: And the Legislature.

MS. FASONE: Consumer protection standards, jurisdiction over sales and transfers, resolution of complaints-- As I mentioned, the guidance of the municipalities through the refranchising process. The Office of Cable Television -- the Board of Public Utilities, more correctly -- is the ultimate franchising authority in the State. So that after the municipality grants a municipal consent, it is up to the Office of Cable Television, Board of Public Utilities to grant an operator's certificate of approval. Those are the chief areas of jurisdiction.

ASSEMBLYMAN COHEN: So except for dollar rates, there is still latitude by either the State agencies or the Legislature to regulate?

MS. FASONE: There's no rate regulation of fees, as well as rates such as fees for disconnects, fees for upgrades, fees for additional set charges.

ASSEMBLYMAN COHEN: Fees that are charged to subscribers can't be touched, based upon the Federal law?

MS. FASONE: That's correct.

ASSEMBLYMAN KRONICK: Is that it?

ASSEMBLYMAN COHEN: For the moment, yes.

ASSEMBLYMAN KRONICK: One last question please: Would there be any advantage to raising the franchise fees that in a way couldn't be passed along to the consumers?

MS. FASONE: The Board has not taken a position on the franchise fees. It's really a public policy issue, and it's a legislative issue. As we said, Mr. Chairman, there is more

than one consumer opinion on franchise fees, because as you know, Federal law does not prevent the cable operator from passing that increased franchise fee on to the subscriber, and indeed, even mentioning that in an itemized bill as a pass-along charge.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Assemblyman, it's going to be a very long night. Could we possibly, maybe request that we have a certain time limit for each speaker, because if not, a lot of speakers will be here until one or two o'clock in the morning? I'm sure you're willing to stay. However, the audience is feeling that maybe we can get to the point here, and go on to the next speaker.

ASSEMBLYMAN KRONICK: Commissioner, I just want you to know your point is well taken, but this is a State representative and really, she deserves the time.

UNIDENTIFIED SPEAKER FROM AUDIENCE: This is a town meeting.

ASSEMBLYMAN KRONICK: This is not a town meeting. This is not a town meeting, please. This is not the same meeting that you had in West New York or Hoboken. This is a legislative meeting. But we are now finished, and thank you.

MS. FASONE: Thank you, Mr. Chairman.

ASSEMBLYMAN KRONICK: Our next speaker--

UNIDENTIFIED SPEAKER FROM AUDIENCE: I have the floor now.

ASSEMBLYMAN KRONICK: You will have time after, sir.

SAME UNIDENTIFIED SPEAKER FROM AUDIENCE: But I have questions for this lady.

ASSEMBLYMAN KRONICK: You don't have that right, sir. After the public speakers, you can address the Committee, sir.

Our next speaker will be Nancy Becker from the New Jersey Cable TV Association.

I want you to realize that-- Excuse me-- Do you realize why we are here, folks? Do you realize why we are here? We are conducting--

This is the Legislature, and I'm sorry to say that this is the way--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Hold on. Wait a minute, folks. Folks, could you please sit down?

Is it possible, Assemblyman, if we could have some people first speak and ask cable TV some questions, and then you can go on with your meeting? We were under the impression that we would be here tonight to ask cable some questions. I think it would only be fair to have them ask them some questions, and then you can go on with your meeting. Thank you.

ASSEMBLYMAN KRONICK: I want you to understand, we're here to take public testimony. Perhaps you had a different impression, but I would like to correct that impression.

We're here for your benefit, folks. We're here for your benefit. We have to extend the courtesy to the speakers who have come here, who have taken time to give input to the process. You will have an opportunity, if you will be kind enough and bear with us you will find out-- (general crowd commotion)

We have only several more speakers, and you will have the opportunity. We are here -- I repeat -- to take public testimony. This is the purpose. (crowd commotion)

MAYOR GATTONI: Ladies and gentlemen, I don't blame you one damned bit. You're here tonight, you're spending your time, and you should be heard. And if you don't let the people speak, I am leaving as of now. (crowd commotion)

ASSEMBLYMAN KRONICK: What we're going to do--

FREEHOLDER ASCOLESE: Everybody, please. Please, just hold fast. Let Dave Kronick say something. Hold fast, please.

ASSEMBLYMAN KRONICK: Just hold it for one minute. We're going to make an exception, and we're going to mix the speakers. We will have several from the public, and we'll come back to the other speakers.

So, who will be the first public speaker?

FREEHOLDER ASCOLESE: Please, everybody, come back here and take your seats. This is to all of our advantages, and we all want to be heard. So please, stay.

ASSEMBLYMAN KRONICK: We'll give these speakers three minutes. We have a list of about 12 speakers. (crowd commotion) Well, you have more speakers, and you want to hear everybody, do you not?

The first speaker, Mr. George Steller, please.

G E O R G E E. S T E L L E R: Good evening. My name is George Steller, and I've lived in North Bergen for 40 years.

Scrambling is totally unnecessary. It will cause a problem with my new television, as well as the televisions of a lot of other people who are here.

My new TV does just about everything but descramble their scrambled signal. It has picture in a picture, with more than one channel at a time. It scans all programs and has four pictures showing at a time. I can block out channels that I don't want my children to see. None of this will work if they scramble their signal because I will have to use their converter box.

They're calling me a thief by scrambling their signals. I paid for cable. I pay for an unnecessary box now. Their box sits on top of my TV and is not used. If I use it, none of these special functions work.

I have a TV in my son's room and one in my daughter's room and neither one is hooked up to cable. They use the TV in the living room, or they watch regular TV or videos.

If they scramble their signal, my purchase of this expensive TV serves me no purpose. I could have purchased one for a lot less money without these functions and saved money.

The State of New Jersey would have also lost money, because they would not have gotten \$180 in sales tax. The local retailer in North Bergen would not have made as much money, and Mitsubishi's "TV of the Future" has just become obsolete because it won't work on a scrambled signal.

And if they insist on scrambling my TV, I will cancel.

ASSEMBLYMAN KRONICK: The next speaker, Mr. Saul Ackerman.

S A U L A C K E R M A N: (speaking off microphone) Good evening. My name is Saul Ackerman, and I'm a resident of North Bergen. I appeared at the West New York meeting because I was incensed at the fact that the television that I had bought and paid a big price for -- part of it was going to be unusable if Riverview Cable scrambled their picture.

Now, at the West New York meeting a lot of gripes were aired and as valid as they were, they weren't germane to the real issue. Because I can promise you that Mr. Fischer, at the end of this meeting, will stand here and acknowledge all of your gripes, and will diplomatically tell you that they are looking into them and are going to do everything in their power to correct them. And I believe him.

But what this is all about is the scrambling of the picture and making the equipment that you have paid a lot of money for either partially obsolete, or they are going to make you pay now for the use of it. The reason for this, they tell us, is that they have about 8000 to 9000 people who are stealing their signal. Now, if they know this--

I don't know how they come up with this figure because if they know this figure, they have to know who the people are. And as Senator Jackman told us at the beginning of the meeting, if they know who these people are, just turn their names over to Senator Jackman, and he will turn them over to the Attorney General and get rid of them. I doubt that is the reason why they are going to scramble the picture.

Now let me tell you this: All of this that you heard from the dias tonight is all very well and good, but all of this takes a lot of time: If, when you buy something in the market, every time you buy something you vote for it. Every purchase you make is a vote for that product.

Now, unlike voting for your politicians, whether they're local, State, or Federal, for good or bad you have to take them for their terms. But not so with cable television. You can vote "no" by immediately canceling.

This is the quickest and most effective way to register your vote. Now, if enough of you cancel-- And I'll tell you, go on a telephone campaign. Just call two people, and those two people call another two people, and two people, and two people, and in no time at all you will reach all of Riverview Cable's clientele. And if enough of you canceled, they will either cancel their scrambling or go out of business. Then we could get a cable television company in here who will have to make a new contract with the politicians who serve us -- an ironbound contract that will give you what you want for the period of time that you want it.

Cancel.

ASSEMBLYMAN KRONICK: The next speaker will be Max Moses, North Bergen Consumer Affairs.

M A X M O S E S: Ladies and gentlemen, I've just returned from back surgery, so if you will permit me to sit down, I have a few things to say that might be able to get you-- (indiscernible)

Ladies and gentlemen, my name is Max Moses, and I'm from the North Bergen Consumer Office -- Consumer Protection -- located in the municipal building. This Office was established three years ago by Commissioner Sacco and myself to assist North Bergen residents with consumer problems of any kind, and consumer fraud; also problems with Riverview Cablevision, which come to our Office.

Some of these complaints that we get are: service appointments not kept, the billing is vague -- it's not broken down by category-- They make appointments for the serviceman to go out to a call, and they don't show up. They have

rudeness when a customer calls the office. They're put on hold. The Muzak comes on, and then they're cut off. And it seems that nobody cares.

I've talked to Mr. Fischer many times as a consumer advocate of North Bergen, and I say now, with 35,000 customers, he's making enough profit. I'm proposing a customer service representative from each municipality that he serves; that is, one from North Bergen, Union City, and the other localities, so that when Mr. Fischer has a complaint, these people will record it and be responsible for dispatching the service or handling the complaint that comes in.

It's just too much work for one man to handle. Mr. Fischer is not there all the time. I, myself, sometimes have difficulty locating him. I recently had to write him a letter. By that time, I was a little annoyed and I was going to charge him with consumer fraud, but fortunately enough, he replied to the request.

Briefly, about cablevision: This was deregulated in 1984 by the Reagan administration. Since then, the average costs have gone up 29% in three years. This is a nonregulated monopoly. I say to Mr. Fischer, if you need more profits in your business, get it from the advertisers, not from the public. You have many advertisers.

Now, my office has received letters from competition who want to come in here. Unfortunately, these people have a long-term contract. You've heard the Senator say that when a new contract comes up-- I don't think we can wait for that. I think we have to have these corrections that I've mentioned and the others have mentioned corrected first.

Now, deregulation has not worked. You have had no competition, and without competition you have a monopoly and you can set any price you want. We need the Legislature to set up rules and regulations for consumer protection.

Now, I'm proposing a cable subscriber's bill of rights which I would like the Commissioners to study. It includes a statement and a letter to the cablevision to say that we want courtesy from all angles of the staff. We want the bills clearly stated -- what the person is getting, and what they are paying for. We want promptness in service, cut out the no-shows, and a customer service representative for each municipality.

Last but not least: In the consumer protection business in which I am involved, we have an unwritten law which says if it is not covered by a written law, if the grievance is too great, we call it unconscionable, and that unconscionable act can be acted upon by the consumer protection agency. This scrambling can be classified as an unconscionable act and therefore can be acted upon by all agencies, local, State, and Federal in this regard. Thank you.

ASSEMBLYMAN KRONICK: Thank you very much, Mr. Moses. Our next speaker will be Tom Bertoli.

T O M B E R T O L I: I seem to think this whole scrambling issue is a smoke screen. They hide behind this issue that somebody is stealing from them. Well, they're stealing from us. If they know their franchise is going to be up in a couple of years, you just have to do a little bit of arithmetic to realize that they can't make money by scrambling the signal.

How much are they going to pay for the boxes? They are going to pay-- They have to buy 37,000 boxes at over \$100 a clip. That means they have to spend over \$3 million for boxes. They claim they are losing \$2 million a year in thievery. If their franchise is up in a couple of years -- and we're certainly not going to give their franchise back -- they cannot make up this money.

But if there is some kind of scam going on, if they are buying these boxes from somebody's brother-in-law, or somebody's sister's uncle, then they are going to make a quick

\$3 million profit on our backs. Something is going on here. Where there's smoke, there's fire. They shake their heads, and they'll go home and laugh at us like we're idiots, but somebody should look into this matter.

You've got Public Service; you've got the phone company. You can't do anything about it. You have to have electric. You have to have the phone in case there is an emergency. You don't have to have your MTV. Don't let them become the new monopoly of the 1990s. We can do something about it. Thank you.

ASSEMBLYMAN KRONICK: Thank you, Mr. Bertoli. The only way in which it is going to be changed, please appreciate this-- It's going to be on the Federal and the State level. That's the only way, so keep that in mind.

Our next speaker--

UNIDENTIFIED SPEAKER FROM AUDIENCE: If we all cancel, who are they going to charge? Who are they going to charge?

ASSEMBLYMAN KRONICK: You're right. That's your point.

Next speaker, please. Ramona Bederka?

R A M O N A B E D E R K A: I just want to say, I'm the President of a tenants association, the Grandview Gardens. We have 156 families in Grandview Gardens. This was discussed at our meeting. And goodbye Riverview from all of us. I've also been in touch with Cullum. There are 308 apartments there. I'm in very close contact with their president. They're going to be doing the same thing.

We've got lots of tenants' associations. This is the time to make us count. We're strong. We've got a lot of apartments there. We've got the Westview, we've got the Lawler Twin Towers, we've got Terrace, Collum. There are a lot of them on Boulevard East. Cable TV has been squeezing us, but we're squeezing back now.

Also, I want to say, you're claiming that this is costing you people \$2 million. It's not costing anything.

It's just that you are being very greedy, and you're not getting that extra \$2 million. That's all it comes down to.

I also want to say that part of what's costing you, I think, might be coming from within: your own people, your own incompetence. Because I just want to say, I got three bills from you people on March 5. All identical; all the same; three bills. This is your stationery, this is postage, this is manpower, this is electric on the computer. The incompetence is from within. All three bills are the same, and you never even deducted my last month's payments.

All I can say is, we're through with you squeezing us. Take your box and shove it.

ASSEMBLYMAN KRONICK: Thank you. I want to thank the speakers for their brevity and being to the point. Next speaker, Ed Bock, is it?

E D B A L E: B-A-L-E.

ASSEMBLYMAN KRONICK: I'm sorry. Mr. Bale.

MR. BALE: Ed Bale, from North Bergen. Good evening Mayor of North Bergen, Commissioners, and distinguished guests. I would like to address this to Mr. Fischer over there, wake him up a little bit. Because later on he's going to talk and he's going to go, "Eh, we'll still scramble." That's what he did in West New York.

I spoke out in West New York, okay? First of all, I want to speak out about something that just happened recently. He speaks of service. He's got a nice little set-up on channel 18 where people call in. He probably gets all of his friends to call to make it look nice and sweet, and they pat him on the back. All right.

Now, I'm going to tell you something. Sunday, you had Marilyn Monroe on, right? Cinemax, right? You say on your channel 18 program that you have -- call in -- you say that-- Home Box, a lot of people complain about Home Box, Cinemax, etc. You say that they program the programs. I'll grant you

that. You're right, Mr. Fischer. They do. But, you said that you service, you pipe it in. Then what the hell happened Sunday at 3:00 p.m. to "Niagara"? The crucial point at the end of the picture. I have a gyro box, scrambled. What good is a box? It came in scrambled.

Now, not only "Niagara," but "The Seven Year Itch," 4:30, right? Scrambled. I missed it. I picked up the "Cable Guide." When is it on next? Okay, Tuesday, 4:30. I rushed home from work. Scrambled. I got a gyro box. Where's your service?

Now, I'd like to say something else. Over in West New York, many of you people know John O'Dell. (phonetic spelling) He spoke out in favor of the senior citizens. I was over there myself and spoke out. Most senior citizens--

In fact, when I first got cable -- basic cable -- it was for reception, because anything over the west side of the Boulevard, you didn't have no reception. They know that. They've got you. But anyway, I'll tell you. I'll take my VCR and rent. I'll rent tapes and watch movie after movie, and the hell with cable.

John O'Dell pointed out that most people have cable ready TV -- which I've got -- and a VCR or whatever -- okay, basic cable. Now, they are going to scramble 2 to 13, and basic channels? I call this unfair.

We don't want your box. Maybe we just want basic cable. All right?

I'll tell you, I got Sports Channel. I could cancel it for the winter. I don't even watch it. I'm paying you, Mr. Fischer. I think you're making out. I could cancel it for the winter, but I keep it because I'm a good sport, okay? This is the truth. I don't even watch Home Box. Home Box I watch for the fights, all right?

Now, I'd like to point out something else, too. He talks about stealing; you know, an extra TV. I pointed this

out over in West New York -- most of you Commissioners or whatever weren't there. He turns around, he says, "People stealing," right? I think Mike DiGiovanni, Commissioner, a good friend of mine; I don't know if he recognizes me. He pointed out that a long time ago the phone company used to charge you for extra jacks and everything. They did away with that, right? Now you can have all the jacks-- You can have all the phones that you want, okay?

Mr. Fischer says, somebody put a splitter, they went down to Radio Shack and got a splitter for the cable, and they're stealing, right? They're not stealing anything. They're paying for that cable to come in. So they want to run it to a bedroom TV and watch-- They're not going to be watching two TVs at once. They're not watching it in the living room. They go into the bedroom and watch it. That's the purpose of it, okay?

Now, I'm going to put myself on the line like I did in West New York, okay? You want your real thieves, Mr. Fischer? Go out in the street, okay? Your real thieves are the guys who approach you on the street and sell you a box for \$250 or \$300, and then say, "Okay, quit cable, and now we'll come around. See us in two weeks, and we'll come and hook you up."

They go up on a pole and they hook you up, and you get everything for nothing. You pay it, one shot, \$250. That's the thief, okay? And how do I know? Because I was approached, and I turned it down.

Okay, that's it. Thank you.

ASSEMBLYMAN KRONICK: Thank you very much.

MR. BALE: And I swear to you, as I'm standing here, I swear, if you scramble April 1, I cancel out.

ASSEMBLYMAN KRONICK: The next speaker please, Helen Nymark? (no response) Did she cancel?

The next speaker ther will be Linda Karcic.

L I N D A K A R C I C: Mr. Fischer, I'm sure you recognize me from the West New York meeting. My name is Linda Karcic. I live in the town of North Bergen.

First off, Mr. Fischer, I'm sorry. I am asking for a public apology of what you said when I brought up about the incompetence of your repairmen and your installers when you dared to say that 95% of these people are the product of Hudson County school systems, and tried to infer that it was our school systems that are responsible for your incompetent training. I dare you to give us a public apology for that. I'm sorry, but we're owed.

Second of all, you talked about the cable theft. At the West New York meeting also, I approached you and asked you how could you give us such an accurate accounting of where the theft was coming from? And you told me, through a survey, that you could pinpoint where each and every cable TV was plugged into or hooked up illegally. If you know where these people are, why in God's name are you going after us? Go after the thieves, not after us.

Thank you.

ASSEMBLYMAN KRONICK: The next speaker, Peggy Graham.

P E G G Y G R A H A M: You speak about cable theft, that people are stealing from you. Look what's in your own company and if you think it's not some of your people from the inside selling these boxes to the people who are stealing your cable, you better wake up and smell the coffee, because it goes on everyday, honey.

Number two, you're exorbitant. I mean, I am paying over \$50 a month. Granted, it is my choice. I have basic, I have HBO, and I have Sports Channel. I am paying you legally for that service. What the he'll difference does it make, how many TVs that I have it hooked up to? I am paying you the legal amount you want.

I've got cable hooked up to three additional TVs. That is an extra \$15 a month on my bill. Where does that \$15 go? It doesn't come back to the consumer. Somebody's pocket is getting fat. Why do you have to charge us that amount when we are legally paying you what you ask for?

Now you are going to try and placate us by adding 22 channels. We don't need or want 22 channels added onto our cable. What could you possibly accomplish by doing that, other than raising our rates, which are already sky high for us who legally pay it?

We are the victims. The innocent people are always the victims, and in this case, we are. We are being penalized for the cable theft.

Years ago -- I'm going back many years, when I first had cable -- what they did is, the installer went up on the pole, and he had a sheet with him. If your number or your home wasn't on that, he went up there and snip snip, he cut your line. That's how you got rid of your cable theft.

You say that-- The last meeting, you know who these people are. You know who is stealing cable, but yet you cannot legally go and prosecute them.

UNIDENTIFIED SPEAKER FROM AUDIENCE: That's a lie.

MS. GRAHAM: I'm taking you at your word. I don't believe it. Why can't you send the installers up and clip those lines? One, two, three: you're done. You don't have to invade anybody's privacy. You go up, and you cut the line.

With these cable-- With these new convertors-- You introduced these new convertors thinking that they would prevent people from bypassing your boxes. I have had over seven boxes since I've had cable. Each one guaranteed me, this is going to cut cable theft. Nobody can descramble through this.

You think that somebody's not going to be able to go through that box? No. And two years from now, you are going

to come out with another box and charge us for that again. No matter what you come up with, somebody can always break through your system.

Another thing, your service: For the amount that I'm being charged, your service; it stinks, in plain English. I call, I cannot get through. I call, the line is busy. I call, an appointment is made, I take the day off from work. All day I stay in. I called your office six times. "I'm calling to confirm that a serviceman is coming." "Oh, yes, Mrs. Graham."

Well, come 5:00, I have to call cable and say, "Where is this man?" "Oh, he got stuck on another job. He won't be there today. I'm sorry, we have to reschedule you for next week." I asked to speak to a supervisor and lo and behold, there's nobody there to speak to.

I think you should start looking from the bottom up in your company. Next on your list is your installers. Why you have outside contractors coming in to do your cable work? Why are you paying outside contractors? I don't understand that. You're charging them, and in turn we're being hit with that increase. You have incompetent cable installers. I've had two in my house. Once when my cable was hooked up. My TV -- if you like I'll give you an example -- was here. (demonstrates) My box, down in the cellar, was here. Where did he run the line? All the way around my room. My husband came home and thought I had installed the cable.

I called cable back and asked to speak to a supervisor. They would not put the supervisor on the phone. I called again the next day, and they said the installer would come out. He had to rip out everything he did. He did not repair the damage. I got no satisfaction. And all he had to do was run the wire up from the basement, redo the cable upstairs into the upstairs bedroom.

You had outside contractors who came in. My husband, who knew nothing about cable, had to show them what to do, and yet you're paying these people to do that work--

UNIDENTIFIED SPEAKER FROM AUDIENCE: No, we're paying them.

MS. GRAHAM: --and it's being passed on to us. It's totally ridiculous.

And with this VCR, and all this other stuff you want to do. How can you justify charging us \$5.00 to rent another box where-- I don't have any more room in my living room to put another cable piece of equipment. To watch TV? To watch two channels at the same time?

Where is this money going that you are charging us? Thank you.

ASSEMBLYMAN KRONICK: Thank you very much, Mrs. Graham. The next speaker, Annette Grady.

A N N E T T E G R A D Y: It's been so long that I forgot what I wanted to ask you. Well, I want to ask you one question first. Most people here gave you security. Don't laugh. I'm talking.

I want to know where the security is, and where is the interest on that money? You don't see it on the bill. You never see it. Where is it?

Every company, whether it's Con Edison or the phone company, you know where it is. We don't know where it is on cable. And as far as charging us for the VCR, we go out and we spend \$400 on a VCR for you to charge us to tape what we want to see? That takes a lot of nerve. Before I pay you, I'll do away with it. It's not worth it.

We go out and we spend \$500 for a TV with a little box here and a big box there. We can't even use the TV, because you want to give us more equipment that we don't need. And you want to charge us more money, when you have men out in the street saying, "Give me \$100, I'll hook this up for you. I'll give you an extra wire." It's your own men that are robbing you. Not us. We are not thieves.

Thank you.

ASSEMBLYMAN KRONICK: Thank you. Our next speaker, Mr. Herb Shaw.

HERB SHAW: Chairman Kronick, ladies and gentlemen. I would like-- I didn't come here to bash Riverview, since you are all doing a very good job of that.

The solution, and I have two of them-- Number one is a capitalist form -- which I prefer, myself -- is competition, as mentioned by Max Moses. Paramus, New Jersey has two cable television companies, U.A. Columbia, and you can reach them at 337-1550; and Cable Vision, 569-3722.

They compete. Their programming is different and their prices are different. You pay, and you have a choice of what you want.

In the future of 1993, "Home and Town Magazine," Tom Caltaldie (phonetic spelling) put out a reprint of a "Post" article. There are going to be very small antennas that are going to be called "Sky-Cable" and they'll have 108 channels. We won't need the cable.

The second solution, to break the monopoly of Riverview, is a socialist solution. In European countries which are socialist, England especially, the postal service works the television and the TV -- we are all familiar with the BBC -- and parenthetically, New Jersey also has public television.

That we go directly into competition with these people, for let us say the North Hudson group, or North Bergen or Weehawken, or Union City, and West New York. There are 37,000 subscribers. Just make the cable available to everyone and no billing, no bother, don't charge a fee.

Who could steal? Who would steal when they get it for nothing? And that eliminates the practice of franchise tax because the subscribers have to pay 5% of the ratables, so what's the difference with the other 95%? The sewage fee should be like that, so it's a very good idea.

Do I have any questions from anybody?

ASSEMBLYMAN KRONICK: Do any of the members have any questions for Mr. Shaw? He's got some new approaches. (no response) We have no questions at this time, Mr. Shaw.

Thank you for the input. Thank you. I really appreciate some original, creative thinking. We'll have to think about it.

The next speaker, Sean Smith.

S E A N S M I T H: Thank you, Mr. Chairman, and Committee for this opportunity. We all know that Riverview Cable is a monopoly, and we all know what monopolies do. They take your money, and enough is never enough.

The problem, as I know because I work for New Jersey Bell, and they are a monopoly-- But, unlike New Jersey Bell, we hire and train skilled workers, union workers; not some people off -- not this contracting thing we see out there. That's why you get that shabby work.

They're saving money by hiring unskilled workers and not training them, not spending the money and the time to train. That's where you get that. Non union.

All right. Another problem you have with the cable, the scrambling, the new format that they are taking over here is that it's robbing us of the TV that we paid money for. And you have to get them. To buy a quality TV set today, it comes cable ready with remote control. If you want a quality TV, that's the way it comes. And its inability-- When you lay out the \$500 or \$600-- You can't get around it.

What they're doing, with that and the VCR, is stealing our technology that we have. And with these new TVs that are coming out, picture in a picture, well, forget about that. That's the future, picture in a picture.

Your next TV you want to buy in five years, a high quality TV, is going to come that way. And if you can't use it-- Who's stealing now? Riverview is stealing.

Now, I can see their point as far as theft goes. No one wants-- I wouldn't want anybody to go inside of my house and steal my cable. But there has to be a system that they can use that allows us to use our own tuners-- A scrambling device that we can put in our basement or on the back of our TV sets that lets us use our own remote controls and our own VCRs, without the tuners where you have to select the channels through that. There has to be. If not, they haven't, maybe, talked to the manufacturers of the equipment they get now. If they are going to buy 35,000, I'm sure they would make one.

So that's all I have to say for that. I'm going to cancel, like everybody else. Everybody has mentioned everything, and I can't say anything more. Thank you.

ASSEMBLYMAN KRONICK: Thank you very much, Mr. Smith.

Our next speaker, please, Hugo, is it Poegelt?

I think we have the industry listening to us once again, so that's positive.

HUGO POEGELT: Ladies and gentlemen, I can say one thing more. I want to know why-- I actually resent the fact that I have to pay for channels that I can't even listen to. I am paying for three channels that are in Spanish. I can't understand Spanish. I should have an option to get a choice of a channel that I can understand.

That's all I have to say. Nobody has mentioned that.

ASSEMBLYMAN KRONICK: Thank you very much, sir.

Next speaker, Ronald Carrino. Is Mr. Carrino here?

RONALD CARRINO: Yes.

ASSEMBLYMAN KRONICK: Thank you.

Thank you all for your brevity and getting to the point. I appreciate it. Thank you.

MR. CARRINO: Mr. Fischer, as the fellow before -- the other fellow that was here said, why can't you make a box that you can control from your office to what programs we're paying for, but does not program our television? We can use our

remote controls, our VCRs, on the two different stations, if we want to watch something and record something else. I mean, it wouldn't be hard for you to make a box without the tuner in it. I mean, I've got a 40-inch Mitsubishi at home, and with your box, it's going to be useless. I can't check my channels, and if you scramble I'm going to cancel. I hope everybody else in this room-- (indiscernible; crowd noise)

Thank you.

ASSEMBLYMAN KRONICK: Thank you.

The next speaker will be Mr. Steve Monetti.

S T E V E M O N E T T I: For the cable record, my name is Steve Monetti and I'm at 1117 50th Street, in North Bergen. I have a couple of questions for the panel; one for the woman who spoke from the PUC.

I'm amazed to find out that this is a monopoly, not only once but now coming on twice. It is a monopoly as far as the franchise goes, then we're going to monopolize and allow this franchise company to come into our community and into our homes, and then tell us what we must purchase. That's outrageous.

Number two: Not only is it a monopoly, but if they're so worried about theft of service, then why aren't they giving it to the public for free? You're going to gain 8000 or 10,000 more people who supposedly or allegedly, as you say, are stealing. I don't believe your figures are correct. If they are, arrest the people; if they're not, produce the facts that they are correct. Produce it to the PUC, produce it to the public, to the taxpayers, and now -- whatever kind of payers you want to call us, subscribers -- or whatever they are. But to sit there and monopolize a second industry is outrageous and ludicrous.

You are hurting the people on fixed incomes in this community, senior citizens, everybody. No one wants to take

money out of their own homes, and mouths of their children and families, and put it into the pockets of a greedy company. It's outrageous.

And you sit there as representatives of the government, of the people of the United States. And if it means getting Federal bills rescinded, rescind them. You are in conflict with State statutes when you say that you can allow a contract for 15 years. In New Jersey, that's illegal. Look in your local code of contract laws. It's outrageous.

Mr. Assemblyman, look into the local code of contract laws. It says you are only allowed to have outside agencies for a year. I mean, I don't understand what is happening? This is America. We're not allowed to have monopolies. Stop it now and here. Right now. Don't let it go any further. It's outrageous. I will quit. You're not going to spend my money.

ASSEMBLYMAN KRONICK: Thank you, Mr. Monetti. Mr. John O'Dell. (phonetic spelling)

UNIDENTIFIED SPEAKER FROM AUDIENCE: I think he left.

ASSEMBLYMAN KRONICK: Leonard Faranola?

LEONARD FARANOLA: Good evening. I would just like to mention at this point what cable is and what cable isn't, okay? When cable came in-- It's gone through an evolution. When it came in, it meant reception for a lot of people in North Bergen who couldn't get it. But let me tell you something. This cable company served Union City, Westfield, and Hoboken. These people were all in the shadow of New York City. We can see the antennae that channel 2, 4, 5, 7, 9, 11, and 13 are broadcasting from, not to mention the New Jersey channels who also utilize antennas on the World Trade Center and the Empire State Building.

Now people, don't forget that TV is free. It comes over the air. Aside from the people who live down the hill in North Bergen -- but that's where we are tonight, unfortunately -- it's free. It's over the air.

TVs are much better now. Ten or fifteen years have gone by since cable locked in their sweet deal. And the TVs are much better, and so are the antennae. Don't forget on April 2, to go right down to Radio Shack and swing a deal where you can buy a nice antenna for about \$49, one-time charge. Get somebody to put it up on your roof. I'll come over, okay.

TV is free, people. Don't forget it. Everybody is worried about their VCR. I love my VCR, I have three of them, okay? Now, this is what I do. I rent movies, and when I don't have time for that I rent movies, and other times I just rent movies. Listen, you can still tape TV. It's free. Cable TV has a tool that's inside it. You just hook up the same antenna that's on the roof, and you can split it all you want, and Mr. Fischer won't come over to your house and bother you.

Radio Shack will take care of you. This sounds like a commercial for these people. But you can get a splitter and have a signal going to all of your TV sets, okay? If it's high enough, you have a clean shot at New York City, you're going to get TV reception. Okay, you're not going to have the Sports Channel. You're not going to have pay-per-view, I'm sorry to tell you that.

Okay, but listen. Look what's going on here. I'll tell you what cable is now. Are they showing current movies now? No. Because we get it at the video stores first, okay?-- a little leg work, okay? You go to Shop Rite. Now, everybody's got videos for you. It's cheap. Cable is not showing you current movies anymore. They're not.

All right. They're showing you some vintage movies. You can get those and rent them. Okay, you punch channel 9 on a Sunday afternoon and see a vintage movie. Don't hang around and be slaves to these people.

Now look, one other thing. April 1. Do you know what that is?

SEVERAL UNIDENTIFIED SPEAKERS FROM AUDIENCE: April Fool's Day.

MR. FARANOLA: It's April Fool's Day. Just some food for thought.

So listen, let's make April 2 a beautiful day, okay? Get on the line, if you can get through, cancel. April 2 is called "Let's cancel Riverview day."

You've got to do it, people, and you've got to do it for everyone's sake. You've got to call your friends, and you've got to say, "Listen, we've got to do it."

If they go a couple of months with nobody paying a bill, they're going to come knocking on your door and say, "Hey, this is a Cablevision special, and we'll give you two movies for nothing."

We've got to make April 2 a very beautiful day.

ASSEMBLYMAN KRONICK: Thank you, Mr. Faranola. I hope no other speakers will put in a little commercial.

The next speaker is Carol-- Is it Romeni.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Romeni.

ASSEMBLYMAN KRONICK: Romeni. Is she here?

C A R O L R O M E N: Yes, I'm here.

ASSEMBLYMAN KRONICK: Thank you.

MS. ROMEN: Mr. Kronick, this is Carol Romeni. Thank you. Mr. Faranola, are you a product of the Hudson County school system?

MR. FARANOLA: (speaking from audience) Yes. As a matter of fact--

MS. ROMEN: Well, you know, you're okay.

Mr. Fischer, you made a big boo-boo in West New York when you insulted us. I'm a product of the Hudson County school system. And you know, maybe I'm not as smart as you, and I know I don't make as much money as you, but I certainly am honest.

All of us know that in the poorer sections of the cities-- In lower Jersey City -- forgive me, anybody from lower Jersey City -- the A & P and the Shop Rite and everywhere

else raises their prices because they're sure people are in there stealing, even if they're not. They're sure, so their prices go up.

So, of course, that kind of thinking comes from those people. We're not as rich as the people out in Bergen County or in Morris County or some of those, so we have to be penalized, you see, because we're going to steal, even though we're not really stealing.

How dare you! And I agree with Mr. Faranola. I bought my Radio Shack thing. On April 2, congratulations, go scramble, honey. Scramble nothing.

Thank you.

ASSEMBLYMAN KRONICK: Thank you very much.

Our final speaker is Paul Sorieno.

P A U L S O R I E N O: Short and sweet. From the sound of the meeting they are not going to have too many subscribers left after April 2. But for those who do, I'm a landlord, and I suggest to other landlords and property owners, that if you want to run a cable to my building, to my house, to service my tenants, you are going to have to pay me for that privilege. Call it an access fee, call it whatever you want to call it. Give some back to me, for a change.

Thank you.

ASSEMBLYMAN KRONICK: Thank you very much.

We're going to take a five minute recess. All of the speakers have been heard except for the industry, and we're going to make a decision on what we are going to do.

Thank you all.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Before we take a recess, is there anybody who wants to speak after the recess? (audience disturbance)

ASSEMBLYMAN KRONICK: Excuse me. Commissioner, we're going to decide, okay? It's our hearing. Thank you.

(RECESS)

AFTER RECESS:

ASSEMBLYMAN KRONICK: We'd like to get started. Would everybody please take your seats? It's getting late and some people have a long trip to make. I want you to know that some of the staff members have come as far away as from Trenton. They have a 65-mile ride.

Our next speaker is Nancy Becker. She is representing the New Jersey Cable Association. With her is Joel Goldblatt. Thank you.

N A N C Y B E C K E R: Thank you, Mr. Chairman. I'm Nancy Becker, and I serve as the Executive Director of the New Jersey Cable Television Association. I've been in that position for 11 years. With me is Joel Goldblatt, President of the New Jersey Cable Television Association.

We've given you an information kit tonight. I'd like to just review what's in the kit that I hope you will take back and read at your leisure.

Good evening, Senator Cowan.

Then I'd like to introduce President Joel Goldblatt to speak.

What we've given you is: a summary of industry developments nationally compiled in 1989, a copy of our Board of Directors, a map of New Jersey cable systems, an analysis of the New Jersey Cable Television Association's community service offerings, some letters to the editor, a resolution on consumer service that the Association just enacted based on Congressman Rinaldo's request on consumer service standards, and position papers on various issues including community access, municipal franchise fees, sales tax, and an op-ed piece on the 1984 Cable Act.

We also have a position paper from our national association on sports programming, and I know that issue was brought up earlier by one of the constituents.

I'd like to introduce Joel Goldblatt, who will talk to you about the industry in New Jersey since the 1984 Cable Act.

J O E L G O L D B L A T T: Thank you, Nancy. We do appreciate the opportunity to be before you this evening.

Let me say up front that I am the managing general partner of Monmouth Cablevision Associates which serves 31 municipalities in Monmouth and Ocean Counties, New Jersey. I'm also a general partner in Riverview Cablevision, and I'm proud of both of those associations.

I believe that Assemblyman Kronick touched on some of the achievements of the industry, especially those of the last ten years. Let me just recount some of those for you, because we believe that we are justifiably proud of these achievements.

From nearly a standing start 10 years ago, we now have over 1.7 million subscribers. We provide service to all but a couple of the 500-plus municipalities in the State. We have constructed over 30,000 miles of distribution system. In fact, and in deed, New Jersey is the most densely wired state in the nation. We believe that's because we have energetic operators, and we have had enlightened regulation. We think this is a tremendous record of achievement, given any reasonable assessment. I would like to respectfully address two specific points in your notice for this evening's public hearing.

First, you note that the Cable Communications Policy Act of 1984 deregulated cable television operations for operators and providers. In fact, ladies and gentlemen, cable television is one of the most comprehensively regulated industries in the country, and New Jersey is certainly no different.

For example: We need a license to operate. There are a whole host of customer service requirements. There are renewal requirements; there are franchise fees; there are technical standards; there are channel use requirements, particularly in the area of access and community programming;

there are equal time and fairness requirements. And we are subject to the most stringent EEO requirements in the country. Director Fasone itemized a list that even went further than this one. In short, it simply is not true that we are unregulated.

Several years ago a Big 8 accounting firm calculated that 22% of the average subscriber's bill went to pay for government mandated services. I, quite frankly, would rather spend that money on service.

Now, there's no doubt that the 1984 Cable Act did change the manner in which we are regulated, particularly in two areas: rates, and franchising power; particularly in the area of renewals.

This brings me to the second major point in your public hearing notice; that is, that the Committee was seeking innovative approaches to benefit and protect New Jersey's cable television subscribers. We submit that subscribers have benefited substantially from the manner in which the regulation of our industry has been altered.

Let's look at one of the primary goals of the Cable Act, the 1984 Act: "To assure that cable communications provide and are encouraged to provide the widest possible diversity of information sources and services to the public." I submit to you that the industry has met this goal.

Flexibility in rate setting has provided additional service. Additional services have required us to expand channel capacity. And with a renewal that is based upon how well we serve our communities, the expectancy of renewal, we have the incentive to do this rebuilding of our systems.

Additional channels and expanded plant has permitted us to develop a more compelling product. That more compelling product has resulted in higher subscriber acceptance. Higher subscriber acceptance has resulted in us being able to serve ever more sparse areas of the State, and that is why New Jersey is the most wired State in the nation.

I suggest to you, therefore, that deregulation of rates and of franchising power has worked, and worked extremely well, and any thoughts at this point to change that scenario is a solution in search of a problem, and at best, is premature.

And I say premature, advisedly. As has been mentioned earlier this evening, the General Accounting Office did come out with a study in the spring of last year. I think it's fair to say that that study was somewhat surprising to our critics because the results were not nearly those that were expected.

I say premature because the GAO was sent back by Congressman Markey's Committee to review its work and to report further in 1990, this year. Furthermore, the FCC will, in July, report on the cable industry.

Let's be specific about the GAO's findings. What they found was as follows -- and we are talking nationwide: The average bill increased 14% between 1986 and 1988. That's 7% a year. To be sure, the basic component of the average bill was higher, but it seems to me what has been lost here is the fact that most subscribers want to know what happened to their bill, not what happened to a component of their bill. Even the GAO study said, "Ladies and gentlemen, this is the bottom line. How much did my bill go up?" And the answer was 7% a year.

The GAO also noted that during the period an average of five channels were added by the cable systems examined, which resulted in the cost per channel staying flat, at 45 cents. By the way, the same relative flatness was experienced in New Jersey, except at a lower rate. In 1988 the New Jersey rate per channel was 41 cents.

Since there has been so much focus on basic rates as a component of the total bill, let me add these additional comments. Prior to the Cable Act, basic rates were kept artificially low. There was an inequity in the price/value relationship between pay services and basic cable services.

Quite clearly the prices for HBO and other movie services were probably higher than what they may have been worth to the consumer. On the other hand, basic service was priced far too low.

Congress understood this and expected basic rates to go up over time. If you examine the period of 1972, when the first Federal Act was passed regulating cable television, through the period of 1986 when rates were deregulated, and you look at the CPI for that period, you would see that we were actually 72 points behind the CPI during that regulated period. In fact, if we were to have kept up, the average rate would have been \$16.54 -- that's during 1988. That's \$2.00 higher than the actual rate.

Until deregulation of rates, New Jersey's rates were governed by something called the common tariff, which essentially pegged the amount to be charged, to the number of services offered. If you looked at common tariff as it existed before deregulation, extrapolated the rate you were charging to the present, we, in fact, are charging about the same as we would have been charging under regulation at the State level.

Let me conclude by saying that the Committee certainly has the right and the obligation to hear from the public on these issues. We want to hear, too. These are your constituents, but they are also our subscribers.

Normally an industry, in a regulatory framework within which it operates, is attacked for its failures, not its successes. For whatever reason, reverse logic seems to have been applied to the cable industry. There is no need to reregulate that which is already regulated and the regulatory changes that have been so beneficial for so many.

The bashing we have been taking, particularly in the press, is unsupported and unsupportable by the facts. We are hoping the facts will eventually prevail over the perceptions. We will do our best as an industry to get the factual message across.

Thank you for this opportunity, and of course, we are available for questions.

ASSEMBLYMAN KRONICK: Thank you very much.

First, I want to acknowledge my esteemed colleague, Senator Cowan, who has come here to grace the table. Thank you, Senator.

I have a question, and will open it up to the Committee. The first question that I have -- and either of you can answer: What proposals are the industry considering to reduce the complaints like we heard here tonight concerning poor service, the billing, inadequate program, high rates and charges?

UNIDENTIFIED SPEAKER FROM AUDIENCE: What happened to scrambling?

MR. GOLDBLATT: Let me address the question in two ways. First of all, if you look at the 12,000 complaints that Director Fascia, I believe, indicated that the Office had in 1988 and I think it was 14,000 in 1989, that is less than one-tenth of 1% of the total subscribership of New Jersey. I think that's a phenomenally low number.

Secondly, the New Jersey Cable Television Association just recently adopted a resolution in support of Congressman Rinaldo's six -- I believe it's six -- consumer standards. The National Cable Television Association has published a list of consumer standards. The adoption of those will be the responsibility of the -- at the discretion of the individual cable companies of the country as well as the State. I think that you will find that most of the companies in the country will support those standards.

Nancy, do you have anything to add?

ASSEMBLYMAN KRONICK: Excuse me. Will those new standards cost the consumer more money?

MR. GOLDBLATT: I don't believe so. Frankly, I think most of the cable companies in New Jersey are already adhering to the standards, at least to a large extent.

ASSEMBLYMAN KRONICK: Do any of the Committee members have any questions? (no response)

Let me ask you this: Are cable companies required to provide notice when disconnecting a cable channel?

MS. BECKER: Yes. According to the Office of Cable Television regulations, it's a 35-day notice requirement.

ASSEMBLYMAN KRONICK: Another question that I have here, please: If some residents are receiving free cable service due to theft, then why does the cable industry penalize the honest subscribers by charging additional fees for scrambling their signal? What is the rationale?

MR. GOLDBLATT: If I might. Mr. Fischer is the next speaker, and I've already indicated that I'm a general partner in Riverview. I'm certainly not going to run from that at all. When Mr. Fischer and I are both up here, we'll be glad to address that question.

ASSEMBLYMAN KRONICK: Thank you very much. If there are no more questions from the Committee?

ASSEMBLYMAN COHEN: How can you tell whether there is theft? What type of monitoring device do you have, or is it an estimation?

MR. GOLDBLATT: No. Let me address that. The numbers that you will hear from Mr. Fischer and me here tonight are not an estimation at all. We conducted a house-to-house audit with an independent contracting firm where every single dwelling unit within the five municipality area served was visited and the drop outside that dwelling unit was inspected. Those that were unauthorized were cut.

ASSEMBLYMAN COHEN: How do you conduct a house-to-house audit?

MR. GOLDBLATT: We go to every single pole and trace every single drop when we get to the various houses. In the case of eminent use, we go to the apartment boxes in those eminent use.

ASSEMBLYMAN COHEN: And then you cut the line if it's determined that it's a theft of services?

MR. GOLDBLATT: That's correct.

ASSEMBLYMAN COHEN: So then what-- Please, please. (referring to audience disturbance)

ASSEMBLYMAN KRONICK: Please. We extended the courtesy to you, please.

ASSEMBLYMAN COHEN: How frequently do you conduct a house to house audit? Because we would try to find out how many of these types of situations currently exist or whether you have eliminated them?

MR. GOLDBLATT: That audit was conducted-- We purchased the system in June of 1986. I believe the audit began in late 1986 or early 1987. It took approximately 18 months to complete. We have reaudited a good portion of the system, and we would be glad to share our experience with you when Mr. Fischer joins me.

ASSEMBLYMAN COHEN: You have that information?

MR. GOLDBLATT: Yes, we do.

ASSEMBLYMAN COHEN: Have you drastically reduced the theft problem?

MR. GOLDBLATT: No, we have not, because so many of the individuals whose drops have been cut have been hooked up again.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Cut them again.

ASSEMBLYMAN COHEN: You haven't prosecuted?

MR. GOLDBLATT: We have made several attempts.

ASSEMBLYMAN COHEN: You've prosecuted those where it was hooked up illegally?

MR. GOLDBLATT: We have done some of that. Yes, we have.

UNIDENTIFIED SPEAKER FROM AUDIENCE: How many?

ASSEMBLYMAN COHEN: The questions come from here, with all due respect.

How many prosecutions have you had?

MR. GOLDBLATT: There have been two major prosecutions.

ASSEMBLYMAN COHEN: Two? Are we-- (audience disturbance)

MR. GOLDBLATT: Let me get to the heart of the problem rather than beating around the bush.

ASSEMBLYMAN COHEN: I can't hear you.

MR. GOLDBLATT: I said, let me get directly to the problem.

ASSEMBLYMAN COHEN: Please, let him speak so we can get information, so we can decide what we can legislate. That's the purpose of the hearing.

Go ahead.

MR. GOLDBLATT: We have a situation where we have, by independent audit, determined that there were 9500 unauthorized illegal connections to basic service. We also have determined by independent--

ASSEMBLYMAN COHEN: Where? Ninety-five hundred in your area?

MR. GOLDBLATT: That's correct.

ASSEMBLYMAN COHEN: How many subscribers do you have?

MR. GOLDBLATT: Thirty-six thousand.

ASSEMBLYMAN COHEN: Okay. Go ahead.

MR. GOLDBLATT: We've also determined that there are over 4000 illegal pay connections, and that's HBO, which is the only unscrambled pay television service. Together, that's roughly 13,000 units.

The enormity of the problem is so great--

ASSEMBLYMAN COHEN: This was determined during the 18-month period?

MR. GOLDBLATT: That is correct.

ASSEMBLYMAN COHEN: And once you finished that 18-month period, certain steps were taken to reduce this 13,000 person problem -- household problem.

MR. GOLDBLATT: The step that was taken was to cut every single one of those cables.

ASSEMBLYMAN COHEN: Go ahead.

MR. GOLDBLATT: What we are faced with here is an enormous problem in terms of volume. It is not practical to attempt to prosecute this volume of people. All we can do in a practical sense is to stop the problem at its source; make the signal proprietary. That's what we are attempting to do, plain and simple.

And let me point out something very, very clearly here. We're talking about a small minority of our subscribership who have even a potential problem. Of the 36,000 customers that we have, 30,500, or 85% already have the requisite equipment in their house, which seems to have been lost in all the discussion this evening.

ASSEMBLYMAN COHEN: You wouldn't know, on any ongoing basis, what the theft problem is?

MR. GOLDBLATT: If you're asking me whether we have an ongoing way to calculate the percentage, no, we have not attempted to do that because the problem, frankly, is so endemic that the only way to solve it is to make the signal proprietary.

ASSEMBLYMAN COHEN: Is to what?

MR. GOLDBLATT: Make the signal proprietary.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Or scrambled.

ASSEMBLYMAN KRONICK: Please, please.

ASSEMBLYMAN COHEN: And how do you go about doing that?

MR. GOLDBLATT: We scrambled, sir.

ASSEMBLYMAN COHEN: You weren't afraid to use the word, were you?

MR. GOLDBLATT: No, I'm not. We've used it, by the way, since September of 1989.

ASSEMBLYMAN COHEN: How many other companies scramble, in the State?

MR. GOLDBLATT: I really don't know. Most of them scramble many of their pay services. I know for a fact that Newark scrambles all of their signals.

ASSEMBLYMAN COHEN: Maybe Ms. Becker might have an idea? Nancy, can you help out?

MS. BECKER: I don't know the numbers of companies that scramble. It's certainly a significant number. But I will tell you that at the Association level, the theft of service problem has been a problem for years.

In 1985 we put together a workshop and a manual on the problem. We did it again in 1988, and I brought a copy of our theft of service workbook which basically gives advice to companies in terms of what they have to do to prosecute theft. The theft problem is very, very significant in New Jersey.

ASSEMBLYMAN COHEN: With the theft problem -- I think it was pointed out by one of the other speakers-- With the theft problem you are losing what you would be getting if they were on properly and paying, as opposed to-- In other words, let's say you have a clothing store. The owner pays for the clothing and then he sells it. In that case, if something is stolen, he is actually losing something out-of-pocket. In your case it seems -- and we are trying to learn more about the industry, believe me there will be more hearings in the future -- what revenue are you out, other than that revenue that you are not receiving?

MR. GOLDBLATT: Well, that's exactly what we are out; the revenue that we are not receiving because people aren't paying us for what they have.

ASSEMBLYMAN COHEN: Right. You're not out-of-pocket though.

MR. GOLDBLATT: Well, let me go on with this. We are spending \$8 million to completely rebuild the system. I think we have the right, and frankly, the obligation to our paying customers -- the overwhelming majority of whom are honest paying customers -- to guard those systems: to be able to afford to rebuild the system.

That's a strange example of a pariah system. Here we come into a marketplace where nothing has happened for 15 years. The first thing we do is add several signals. The next thing we do is to start rebuilding the system.

And by the way, ladies and gentlemen, we're not talking about just to plant our poles at \$30,000 a mile. We're rewiring 40,000 multifamily units. That's been going on for a year-and-a-half.

We can't justify that investment unless we can get our subscriber number to grow, and we can't get it to grow when 9000 people aren't paying us for something that we are delivering.

ASSEMBLYMAN COHEN: But you are doing that also because of what is going to happen to the cable industry. There are going to be more services in the future; different types of programming, all of which will have a cost at a certain point in time. So, the recabbling for the last year-and-a-half isn't simply because you're gracious. It's because you're allowing for an opportunity in the future to increase business.

MR. GOLDBLATT: We're not doing this to be gracious. You're absolutely right. We are in a business.

ASSEMBLYMAN COHEN: Exactly.

MR. GOLDBLATT: But the only way for this business to make sense is for us to maximize the number of paying customers we can get. And we're very honest and open about that.

I think that's true of any cable system and true of any company. They want to maximize their customer list. We can't--

UNIDENTIFIED SPEAKER FROM AUDIENCE: This is the United States of America, not Russia.

ASSEMBLYMAN COHEN: Please, please. Go ahead.

MR. GOLDBLATT: I want to finish my point. We can't--

ASSEMBLYMAN COHEN: When does your franchise come up to be renewed?

MR. GOLDBLATT: There are five individual municipalities, therefore five franchises. Several of them are in '94, and the others are in '95. We are rebuilding this plant irrespective of the relatively short franchise periods that we face, which is one of the benefits of the deregulation that we are experiencing.

ASSEMBLYMAN COHEN: Well, apparently the Federal government is looking to perhaps review that. From what I can read from the materials, Senator Danforth and several other United States Senators are reviewing the possibility of changing that.

MR. GOLDBLATT: Well, now we get into national issues. You are right. There are some 14 bills, I believe, that are before Congress. The industry would argue -- and I would argue -- that that's the quickest way to drive away investment. If there is no incentive for any cable television operator to put more money into plant because he is not going to be sure if he has the right to operate several years hence, he's not going to do it.

ASSEMBLYMAN COHEN: Unless, of course, the Federal government determines that you can pass through certain things to the consumer, certain costs.

MR. GOLDBLATT: Well, but at the end of the day, somebody has to have made some money, or else the service will not be provided.

ASSEMBLYMAN COHEN: Oh I understand that, but if the Federal government can do that-- Are there are some bills in the Senate and in the House in terms of prohibiting pass-throughs on certain charges?

MR. GOLDBLATT: Well, the only pass-through that I am aware of is the existing Cable Act that does permit the pass-through of additional franchise fees above those currently charged.

ASSEMBLYMAN COHEN: Including if there were any sales tax imposed.

MR. GOLDBLATT: Yes.

ASSEMBLYMAN COHEN: Your position is, that on a State level, that's a pass-through.

MR. GOLDBLATT: Yes.

ASSEMBLYMAN COHEN: And you are also saying that the Federal government requires -- permits you--

MR. GOLDBLATT: Permits, not requires.

ASSEMBLYMAN COHEN: --to make that pass-through?

MR. GOLDBLATT: Permits, does not require. That's correct.

ASSEMBLYMAN COHEN: Is it your position also, that the State Legislature is prohibited from restricting that in any way?

MR. GOLDBLATT: I'm not sure that I understand the question.

ASSEMBLYMAN COHEN: In other words, if a sales tax is imposed and the State Legislature says that you can't pass this through, is it your position that Federal law says you can, and therefore we don't have jurisdiction?

MR. GOLDBLATT: I think that's the legal position. That's correct.

ASSEMBLYMAN COHEN: I have nothing further now, but I'm sure that we'll be having further hearings, thank you.

ASSEMBLYMAN KRONICK: Assemblyman Kavanaugh?

ASSEMBLYMAN KAVANAUGH: Yes, sir. I wonder if you could-- I'm a little shocked at your figures. You have 36,000 subscribers?

MR. GOLDBLATT: That's correct.

ASSEMBLYMAN KAVANAUGH: The 9000 are not a part of that 36,000?

MR. GOLDBLATT: That's correct.

ASSEMBLYMAN KAVANAUGH: So you are talking in the area, as far as 30% of the people in town are thieves?

MR. GOLDBLATT: Well, let's look at the numbers this way--

ASSEMBLYMAN KAVANAUGH: They're stealing?

MR. GOLDBLATT: No. Let's look at the numbers this way. We pass roughly 75,000 dwelling units, meaning that's the number of homes that have cable available to them.

ASSEMBLYMAN KAVANAUGH: I understand that, but I'm talking about percentage of people who are using in town--

MR. GOLDBLATT: Understood.

ASSEMBLYMAN KAVANAUGH: --or in the five towns, or whatever it is.

MR. GOLDBLATT: Understood. I am suggesting to you--

ASSEMBLYMAN KAVANAUGH: So, you are losing in revenues a million-plus a year?

MR. GOLDBLATT: Well, 9000 times \$35 is closer to \$3 million a year.

ASSEMBLYMAN KAVANAUGH: Oh. I thought you said it was \$15.50. You're talking about the total bill?

MR. GOLDBLATT: The total bill. And I'm not suggesting, by the way, that everybody who is stealing is necessarily going to start to pay.

ASSEMBLYMAN KAVANAUGH: I'm sorry. What was that?

MR. GOLDBLATT: I am not suggesting-- We have not suggested that everybody who gets cable service for nothing will all of a sudden start paying. We think a substantial portion of them will; not necessarily everyone.

ASSEMBLYMAN KAVANAUGH: You know, we've done amnesty in other areas and there's a possibility that should be looked at by--

MR. GOLDBLATT: We did, sir. And we had 60 takers, as I remember.

ASSEMBLYMAN KAVANAUGH: What is the penalty for stealing cable signal?

MR. GOLDBLATT: I don't know the statutory penalty offhand.

ASSEMBLYMAN COHEN: If it's theft of services, it's probably based on a dollar amount.

MR. GOLDBLATT: I think it's six months, but I'm not sure.

MS. BECKER: I think it's up to \$500.

ASSEMBLYMAN COHEN: It's probably a fourth degree offense. Is it a fourth degree offense, or is it a disorderly person's offense?

MR. GOLDBLATT: I think it's up to six months. Hold on a second, and let's see if I can answer the question. I think it's \$1000 and six months.

ASSEMBLYMAN COHEN: It's a disorderly person's offense.

ASSEMBLYMAN KAVANAUGH: You know, if it's-- You know, if myself and the people here, the honest people who are being abused by the other individuals in this cable system, I think that on those phone calls, where they go out and call two and two and two, they should also look to the people who are stealing from them. Because if you're losing \$2 million to \$3 million a year revenue, you have to pass that through to them because of the cost of doing business.

There's always two sides to every coin. You know, when I was raised, anything that was given to me as a gift was mine; anything that I would take, was stealing. Now, I can't believe in today's age, that here in the great County of Bergen (sic) that you would have that type--

I think that we have an obligation as the Legislature to probably impose higher fines or some way-- I mean, we talk about-- It's a poor training period for children when they know that the parents are getting free cable TV, and then they wonder why their lunch money is being stolen at school?

I would hope that the one thing that comes out of this this evening-- I feel sorry for the individuals who, if they have been getting poor service-- We have TKR in our area.

We've been on their backs for months, and they really have improved. We're pleased with that, and they are trying to do more.

But I think, Mr. Chairman, that it is unfair to these people who took time out of their busy schedule to come here this evening as citizens of North Bergen, that possibly their next door neighbor or every fourth or fifth door that have cable, are taking money out of their pockets. That's wrong.

ASSEMBLYMAN KRONICK: Thank you, Assemblyman.

MR. GOLDBLATT: Let me just comment. Let me comment, if I might. And I certainly agree with most of what the Assemblyman said.

There's a lot of unfairness here. And let me say something to you all, and to the people behind me that may surprise them. We harbor no antipathy whatsoever toward the people of North Hudson County. The fact of the matter is, in urban areas, because the housing density is so great, because the congestion is so high, because we have wires running all over the place, it is easy to steal. You don't see scrambling as often in nonurban areas.

Let me give you some hard numbers. I was accused, by the way, earlier -- and I'll put it on the record -- of not doing this in Monmouth County where we have a system. And we're not doing it. We're not doing it because we did exactly the same thing down there that we've done here; we did an audit.

We found a fraction of a percent of unauthorized connections. One of the main reasons is the density down there is 80 homes per mile. The density of North Hudson County is 600 homes per mile; an eightfold difference.

We have only one choice. We've got to scramble our signals. We cannot nip it just at the pole. That's what we're faced with.

This decision was not made lightly. It's an expensive decision. It's cost us millions of dollars to put these

converters out. It's not something we like to do. We don't like to come here and get bashed. We have no choice. If we're going to improve this plant, we have to insure our signals.

ASSEMBLYMAN KRONICK: I would like to offer for you something to think about. What if there was a moratorium for six months or a year, and you increased the penalty? Very often, when a penalty is severe enough that is a deterrent in itself. Give that a try, and let's see if that flies. Then take a look at it to see whether scrambling is necessary. I think you would make a lot of folks in this part of town very happy.

ASSEMBLYMAN COHEN: I'm just curious. The revenue loss that you're sustaining, not because it's dollars out-of-pocket because it's simply money that you are not receiving, is that taken off on any business tax return -- some type of operating loss?

MR. GOLDBLATT: I haven't met the accounting firm yet that's going to let us deduct revenue that we never received.

ASSEMBLYMAN COHEN: I'm sorry. It's hard to--

MR. GOLDBLATT: I said I have not met the accounting firm yet that's going to let us deduct as an expense, revenue we never received.

ASSEMBLYMAN COHEN: The answer is no?

MR. GOLDBLATT: The answer is no.

ASSEMBLYMAN COHEN: Do you receive any type of credit, or anything in terms of on taxes for this type of thing.

MR. GOLDBLATT: No, we don't.

ASSEMBLYMAN COHEN: Nothing further at this time. Thank you.

ASSEMBLYMAN KRONICK: I have one last question. Are you motivated in any way to proceed because of the threat of perhaps an alternative system, vis-a-vis microwave, or telephone company coming in? So you're out there now and

trying to get what you can, because who knows how long this goose is going to stay with the golden egg? Is that a motivating factor?

MR. GOLDBLATT: If that were our motivation, all we would have done was raise rates, not spend millions of dollars to put converter boxes out there and not spend \$8 million to rebuild the system. We would have done everything on the revenue side, not on the expense and capital side.

ASSEMBLYMAN KRONICK: Thank you very much.

MR. GOLDBLATT: Thank you.

ASSEMBLYMAN KRONICK: Our next presenter is Mr. Fischer, from Riverview Cable.

J O S E P H F I S C H E R: Mr. Chairman, members of the Committee, Senator, and North Bergen officials and dignitaries who are here: I do appreciate the opportunity to be here this evening and to listen to the comments made. In the interest of brevity this evening, I have filed a set of formal comments with the Committee, formally addressing the scrambling issue. I will not attempt to read them or repeat them now. What I would rather do is elaborate on Joel's statement a little bit and discuss some of the statements this evening relative to service from Riverview Cablevision specifically.

I would initially like to start-- Joel had indicated a number of reasons why we are rebuilding our cable system, and I would just like to add one to that. This cable system, in terms of the natural life of a cable system, should not have to be rebuilt at this point. Technically it does have to be rebuilt now. A major reason for that is vandalism of our cable system.

These 9000-some-odd residents who are tapping into our cable lines, they don't just steal our service, they cause-- They do not do a terrific job of installing, themselves. They cause leaks in our system. They cause damage. They cause some of the outages that people referred to. They tap into people's lines, and they are literally pulling signal away from them.

Over the course of years of this type of vandalism it has caused the cable system to deteriorate to a larger extent than it would have ordinarily. That is another reason why the cable television system that Riverview operates in North Hudson County needs to be rebuilt.

A couple of other service issues that were touched upon: Mr. Moses, with whom I have spoken quite a number of times, mentioned that billing is vague. I agree with Mr. Moses. Billing has been vague, and it is for that reason that Riverview Cablevision last fall introduced itemized bills for its customers. I do agree with that statement. I don't argue with that.

He also indicated that at times employees are rude. I wish I could tell you that that was not true, but we are no different than a whole lot of other businesses, and some employees are more or less polite than others. I don't believe you can legislate people being nice and courteous to customers any more than I can force it down people's throats.

We train people on customer service. We monitor what they do. We discipline them. In extreme cases their employment is terminated. However, I wouldn't deny that rudeness is a fact of life and we -- and I believe every other cable operator in this State -- are working very hard in that regard.

Mr. Moses also indicated that he would like one customer service representative for each community, each of my five communities. He might be interested to know that we have close to 25 customer service representatives serving all five of the communities right now.

To the extent that I was not available for one of his phone calls, I do recall the incident that he was referring to. I am available for a whole lot of phone calls. And he might not have mentioned perhaps the dozens of times that I

have been there to take his call on the first time he called. I do try to stay very accessible to both subscribers and elected officials.

In terms of the subscriber who mentioned that she had received three bills from us just recently and called that incompetence: There was a reason for that. We introduced a new computer billing system to Riverview Cablevision last September. It was purchased from a worldwide company called Unisys. It is a state-of-the-art billing system. It is innovative and with any new technology, unfortunately, there are a number of bugs in terms of it; especially, we came across a number of them in the billing area.

We realized there was a problem because more-- Based on the postage and the inserts put in with the bills, we knew that there were more bills mailed than there should have been and we did track down the cause for that earlier today. It was a computer problem. However, the customer is correct. She received three bills with, I believe, identical balances on them. We did not triple bill customers.

Yes, it was a waste of postage. Yes, it was a waste of a lot of other facilities. It was not an attempt, intentional or otherwise, to overbill customers.

One of the other callers mentioned that I take phone calls, live on television, once a month. That is true. I guess none of my callers are here this evening, but I can assure you that I do not set up calls on that show. I take live, unscreened calls, and in fact, I'd be happy to provide this Committee with tapes of any one of the shows I've done, and I don't believe all the calls that I get are complimentary.

Certainly, some of the things that I've heard this evening have been stated on that show. I do try to explain policies to people. I try not to dodge the issues. If we're wrong, we're wrong; and if we're right, we're right. But I do take those calls on the air.

Somebody had indicated that when they are paying for one TV in their home, and when they split the signal on their own and run three or four TVs, they should not have to pay \$5.00 an outlet in Riverview's case, or whatever another cable company might charge, and that that is not theft of service when they take that. A cable television company, like any other business-- The revenue comes from a number of sources. In virtually every cable company that I know of, one of those sources is additional outlet revenues. Additional outlets are optional for people. Should a cable company not charge additional outlet revenues, it doesn't really take a business degree to understand that that revenue has to be made up somewhere else, and it will.

While -- I said this at the West New York hearing, and I'll say it again -- the fact that somebody does not want to pay us for additional outlets, might think it's unfair that we charge for additional outlets, I understand that. There are some people who think a Big Mac should come with fries, and they shouldn't have to pay for it. Everybody's entitled to their opinion.

The fact is that when a cable company or any other business is selling a product and puts a price on it and somebody comes along and takes that product without paying for it, I believe that is stealing. I'm not saying that these people are doing it with the worst intent in the world, but it is stealing.

One of the other people addressed my remarks at the West New York hearing vis-a-vis the local school systems. I think I was misinterpreted, and I do want to clarify that. What I was trying to indicate at that hearing was that, in fact, 95% of the Riverview Cablevision employees are residents of Hudson County. They live here, and they have gone to schools here. I didn't mean to insult the residents of Hudson County any more than I meant to insult my employees.

This isn't Riverview's position, it is my own personal position. But I do think that the school systems -- not just in Hudson County, but in this country generally -- could use a great deal of help. I think that would be reflected in the work force of not just Riverview Cablevision, but all businesses. But I did not mean to single out Hudson County. I quite honestly don't know whether the situation in the schools here is better or worse than anywhere else because I don't go to those schools.

UNIDENTIFIED SPEAKER FROM AUDIENCE: That's not the point.

ASSEMBLYMAN KRONICK: Please, let him finish.

UNIDENTIFIED SPEAKER FROM AUDIENCE: No. I'm sorry. You had no right to insult this entire community. Don't say that we misinterpreted you, sir. We did not. That is what you stated.

MR. FISCHER: It's interesting at this hearing that a number of people-- I've heard two kinds of comments. One is that they don't believe that there is the theft of service problem here, and perhaps they don't know of anybody who is stealing cable service. I, personally, find that hard to believe, but I suppose it is possible. It's interesting then, there's another group of people that said, "The thieves are selling boxes that descramble, on the street," or, "Your employees are doing it," and maybe some other scenarios. I don't believe that you can have it both ways.

I don't think there's much I can add to Joel Goldblatt's explanation of how we audited the system. It is completely accurate in the way that worked. Again, why don't we just cut the illegal lines? That is what we did, and the people rehooked themselves up. At least our spot audits indicate that.

To the extent that somebody said that they called and a supervisor was not available to speak with -- and I don't

question the fact that that statement is correct-- I can tell you that at all times when there is an employee working at Riverview Cablevision, there are supervisors there. To the extent that a supervisor did not or could not come to the telephone, that is inappropriate. At the very least, customers deserve a phone call back from the supervisor, if they request that. If it was not done, I can only say that that is wrong.

ASSEMBLYMAN KRONICK: Are you almost ready to wrap it up, Mr. Fischer?

MR. FISCHER: Sure, I'll go through these rather quickly. A customer indicated that we do not credit interest on converter deposits as required by State law. That is incorrect. Every customer who has a deposit with Riverview Cablevision, their account is credited with the statutory amount in January, and it is reflected on their accounts.

Somebody indicated that -- or at least inferred -- that other security technology would be better than scrambling. To my knowledge, with the state of the art in the cable television industry today, there is no other such technology.

I'll end my remarks there, since we are short of time. If the Committee has any questions, I'll be happy to address them.

ASSEMBLYMAN KRONICK: Well, I think this was a productive hearing. We got a lot of input from the public, and you heard the other side. I know my colleagues and I will decide whether we're going to have another hearing down in Trenton. We will have prints of the testimony given tonight for evaluation.

My sense of what has happened here tonight-- Obviously we are going to have to take a long, hard look to see, even though we have our hands tied -- keep it in mind by Federal regulation. You might want to be contacting your Congressmen and Senators, and let them know how you feel here,

because they can make a big difference, if that's how you feel about it. But, we'll see what we can do from our end, and we may be speaking to you down in Trenton.

I want to thank everybody who took the time out tonight to come here. Good evening, and thank you very much.

(HEARING CONCLUDED)

APPENDIX

March 6, 1990

To whom it may concern:

Scrambling is not necessary and will cause a problem with my new television. My television does just about anything except de-scramble their scrambled signal. It has picture in picture with more than one channel at a time. It also scans all programs available with 4 pictures showing at a time. I can block out channels that I do not want the children to watch. None of this will work if they scramble their signal because I will have to use their converter box.

They are calling me a thief by scrambling these signals. I pay for cable and I pay for an unnecessary box now. Their box sits on top of my TV and it is not used. If I use it, none of these special functions work. I have a TV in my sons' room and one in my daughters' room and neither one is hooked up to cable. They use the TV in the living room or watch regular TV or videos.

If they scramble their signal, my purchase of this expensive TV serves me no purpose and I could have purchased one for a lot less money without these functions and saved money. The state of New Jersey would have lost money because they would not have gotten \$180.00 in sales tax the local retailer in North Bergen would not make as much money and Mitsubishi's **TV of the future** became obsolete because it will not work on a scrambled signal.

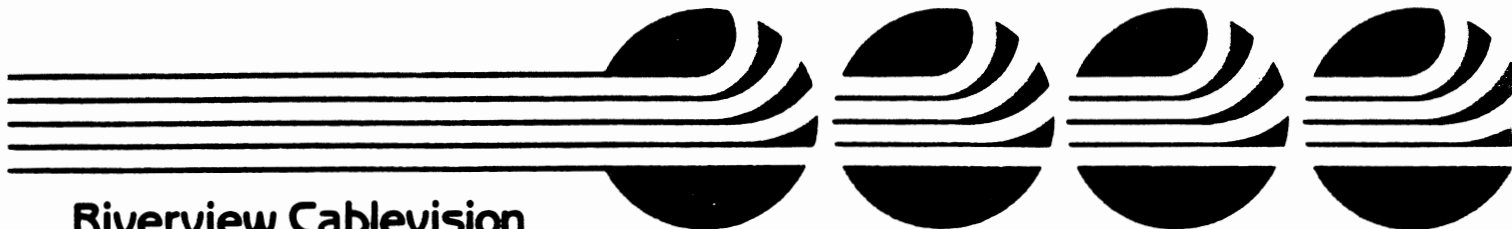
Thank you,

George E. Steller

George E. Steller
1500 - 67th St.

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Riverview Cablevision Associates

For Immediate Release
March 7, 1990

RIVERVIEW CABLEVISION: THE DECISION TO SCRAMBLE

Riverview Cablevision's decision to scramble its signal was driven by the significant theft of service problem it has experienced. Based upon a house-to-house audit, Riverview has discovered some 9,500 unauthorized basic cable connections and over 4,000 unauthorized pay service (HBO) connections.

Prior to making the decision to scramble, Riverview Cablevision tried, without success, to combat theft of cable service in a less costly, conventional way. Riverview first conducted an amnesty program and then a house-to-house audit, at a cost of \$250,000. A wide sample was done on a follow-up basis which substantiated that after being disconnected, a large number of illegal hookups were reconnected.

Scrambling has become customary in urban areas where there is above average housing density. Urban cable systems which have scrambled their signal include the franchises in Staten Island, Philadelphia, Brooklyn, Queens and Newark.

Riverview Cablevision has approximately 36,000 subscribers, 30,500 or 85 percent of whom already have one or more addressable converter. Of those 30,500 who have the addressable converters, approximately 27,500 have opted to receive optional remote control devices from Riverview. Therefore, the entire universe of subscribers currently affected by the decision to scramble - other than those who have cable service illegally - is the 15 percent of the subscribers who do not already utilize the addressable converter.

Moreover, some of the "cable ready" sets in our subscribers homes do not have the capacity to receive the total number of channels that Riverview will be offering upon completion of its system-wide rebuild project. Subscribers who have these sets will need the addressable converter to receive the full compliment of channels that are included in the cable service package for which they are paying. Additionally, Riverview Cablevision makes available a remote control unit that has features above and beyond those found on most devices supplied with television sets.

-more-

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In order to minimize the impact that scrambling would have on subscribers, Riverview adjusted its remote control pricing structure effective January 1, 1990. Riverview Cablevision's new "household remote" service gives subscribers a remote control unit for each cable television outlet for one flat fee of \$2 or \$3 per home, depending on the number or premium services (HBO etc.) subscribed to, instead of \$2 or \$3 per remote. With this change, Riverview's revenue from remote rentals has decreased to less than what it was in 1989. When scrambling is complete, our remote revenue will be the same as it was in 1989 illustrating that scrambling is not profit motivated based on increased remote rentals.

Riverview Cablevision is committed to providing quality service at reasonable rates to all of its subscribers. Since purchasing the system in June of 1986, Riverview has spent millions of dollars on improvements and is currently in the process of a complete rebuild of the cable system at a projected cost of \$8 million. While cable operators often wait until franchise renewal time to promise a rebuild of their facilities, Riverview has made this commitment four to five years prior to the expiration of its franchise terms. Riverview is in the process of spending significant sums of money now in order to improve the quality and quantity of the services it offers. Riverview has, and will continue to make, a sizeable investment in its franchised area, and believes that it has the right and obligation to protect that investment for both for itself and its honest customers, through the means selected to stop the theft of service.

Riverview Cablevision Associates feels that it has acted responsibly and prudently under the circumstances and has tried to minimize and inconvenience that the scrambling of signals will pose to its subscribers. Riverview has constantly strived to maintain good relations with its subscribers and with elected and non-elected officials in our franchise area. We sincerely hope that upon a fair evaluation of all facts relevant to the decision to scramble, those good relations will be preserved and ultimately improved.

FOR MORE INFORMATION CONTACT: Joseph Fischer (201) 798-1614
Robert F. Smith W(201) 449-7896 H(201) 223-6984

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W. J. Jacone
Director
Office of Cable Telev.
BPA

CONSUMER COMMITTEE HEARING

GOOD EVENING. LIKE THIS HEARING TONIGHT, INQUIRIES ARE TAKING PLACE AT THE FEDERAL LEVEL AS YOU KNOW AMID COMPLAINTS THAT A DEREGULATED CABLE INDUSTRY HAS SPAWNED AN ENVIRONMENT OF UNRESPONSIVENESS BY SOME CABLE OPERATORS TO CONSUMER NEEDS AND INTEREST.

TO THAT END, IT WOULD BEST SERVE THIS COMMITTEES NEEDS TO OFFER THE NEW JERSEY EXPERIENCE, FROM THE PROSPECTIVE OF THE OFFICE OF CABLE TELEVISION AUTHORIZED TO RECOMMEND REGULATORY MEASURES TO OUR BOARD OF COMMISSIONERS.

I WILL ATTEMPT TO IDENTIFY FOR YOU:

1. THE CHIEF AREAS OF COMPLAINTS FROM SUBSCRIBERS
2. OPTIONS FOR REGULATORY RESPONSE
3. LEGISLATIVE MEASURES AS A REGULATORY TOOL

WE PROJECTED OUR 1989 TOTALS WILL EVIDENCE AN INCREASE OF ABOUT 20% IN THE OVERALL NUMBER OF COMPLAINTS FROM NEARLY 12,000 IN 1988 TO CLOSE TO 14,000 THRU DECEMBER 31, 1989.

BEGINNING WITH THE HIGHEST PERCENTAGE OF COMPLAINT CATEGORIES;

BILLING-----TELEPHONE ACCESSIBILITY-----OUTAGES----

LACK OF ENFORCEMENT AUTHORITY TOGETHER COMPRISE ABOUT 40% OF OUR YEARLY COMPLAINT TOTALS.

4x

35% OF NEW JERSEY CONSUMER COMPLAINTS SPEAK TO TECHNICAL COMPLAINTS ON RECEPTION AND QUALITY OF SERVICE; SIGNAL CARRIAGE (SUCH AS THE NON-AVAILABILITY OF A PARTICULAR NETWORK) AND AUXILIARY EQUIPMENT.

FOLLOWING THAT 15% OF OUR COMPLAINTS ARE RATE RELATED (AND THERE IS AN NEAR EQUAL DIVISION BETWEEN COMPLAINTS ABOUT THE COST OF BASIC AND COMPLAINTS ABOUT THE COST OF OTHER SERVICES AND FEES).

LASTLY ABOUT 10% OF OUR TOTAL COMPLAINTS ADDRESS AVAILABILITY OF SERVICE.

IN AUGUST OF 1989, JUST AFTER THE FIRST FEDERAL GENERAL ACCOUNTING OFFICE REPORT WAS ISSUED ON NATIONAL CABLE RATES AND SERVICES, THE OFFICE OF CABLE CONDUCTED A PARALLEL STUDY OF THE STATE CABLE LANDSCAPE. WE UNDERSTAND THAT WE'RE THE ONLY STATE IN THE COUNTRY TO HAVE COMPLETED THIS AND SHARED THIS STUDY WITH THE NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS' BOARD. THIS STUDY WAS ALSO DISTRIBUTED TO OUR APPROPRIATE FEDERAL LEGISLATORS AND I HAVE A COPY FOR EACH MEMBER OF THIS COMMITTEE TO DISTRIBUTE TO YOU TODAY.

THE STUDY WILL PROVIDE YOU WITH AN ANALYSIS OF THE OVERALL TRENDS SINCE DEREGULATION IN THE AREAS OF: RATES, CHANNEL INCREASES, REVENUES, CONSOLIDATION AND ITS EFFECT ON RATES, AD REVENUES AND RATES IN CLASSICAL VS. COMPETITIVE MARKETS THROUGHOUT THE STATE, WHERE THE MOST GRADE B CONTOURS FAIL AND WITH THE ABSENCE OF INTERFERING SIGNALS.

IT WILL INDICATE AN INCREASE IN RATES BETWEEN 10 TO 40 PERCENT FOR 75 PERCENT OF NEW JERSEY SUBSCRIBERS WITH AN INCREASE ON AVERAGE OF 2 CHANNELS PER SYSTEM SINCE DEREGULATION, (DEC., 1986).

IT WILL SHOW THAT 29 SALES HAVE OCCURRED SINCE DEREGULATION AND PURCHASED COMPANY RATES ARE SLIGHTLY HIGHER PER MONTH (BY ABOUT \$1.70) FOR BASIC FOLLOWING A PURCHASE. RECONNECT FEES HAVE RISEN ABOUT 13-1/2 PERCENT SINCE DEREGULATION AND OVERALL CABLE SUBSCRIPTION IS UP 16-1/2 PERCENT.

AS A POINT OF FACT, THE AVERAGE SUBSCRIBER IN NEW JERSEY PAYS \$15.33 PER MONTH FOR 32 CHANNELS. THERE ARE ABOUT 1.7 MILLION SUBSCRIBERS IN NEW JERSEY WHERE CABLE IS IN ABOUT 62% OF OUR HOMES. THAT IS ABOUT 15-20% HIGHER THAN THE NATIONAL PENETRATION RATE ESTIMATED AT ABOUT 47%.

IN ADDITION TO OUR REPORT ON CABLE ASSESSING TRENDS AND INCREASES SINCE THE CABLE ACT WENT INTO EFFECT IN DECEMBER OF 1986, WE HAVE A BREAKDOWN OF THE CONCENTRATION OF SUBSCRIBERS IN THE STATE CURRENTLY AND A TABLE OUTLINING CONCENTRATION AND CONSOLIDATION SINCE DEREGULATION BY THE NINE LARGEST MULTIPLE SYSTEMS OPERATORS (MSO'S) SINCE DEREGULATION.

A CURRENT ACCOUNT OF RATES FOR EVERY CABLE SYSTEM IN THE STATE IS ALSO BEING PROVIDED TO YOU TODAY.

6x

SOME OF THE AREAS OF JURISDICTION ARE EXPLAINED IN OUR NEWSLETTER WHICH I HAVE DISTRIBUTED TO YOU ALSO BRIEFLY THIS IS PART OF AN OUTREACH PROGRAM WHICH THE OFFICE FORMED ABOUT 20 MONTHS AGO TO HEIGHTEN COMMUNICATIONS WITH OUR ELECTED OFFICIALS ON THE STATE AND LOCAL LEVEL AND ANNOUNCE OUR READINESS TO ASSIST THE MUNICIPALITIES AS WE ENTER THE PEAK ERA OF RENEWALS IN THE STATE THROUGH 1992.

THE PURPOSE OF THESE HANDOUTS TODAY IS NOT SO MUCH TO TELL YOU WHAT WE'VE DONE, RATHER IT'S TO ASSIST YOU IN DECIDING WHAT YOU MIGHT WISH TO DO FOR THE CABLE CONSUMERS OF THE STATE.

OUR PRINCIPAL THRUST AS AN OFFICE HAS NOT ONLY BEEN MUNICIPAL ASSISTANCE. WE HAVE JUST SPENT ABOUT SIX MONTHS AND EXPECT TO SPEND AT LEAST THREE MORE ON THE RULES AND REGULATIONS OF THE OCTV WHICH AS YOU MAY KNOW THROUGH OUR MAILINGS, WILL EXPIRE ON JULY 29, 1990.

NEARLY 70 PEOPLE ATTENDED AND MORE THAN A DOZEN TESTIFIED AT OUR FIRST HEARING ON OUR RULE PREPROPOSAL REGARDING THE 40 NEW OR AMENDED RULES WE ARE PROPOSING IN ORDER TO PROMOTE A MORE EVEN SUBSCRIBER-FRIENDLY LANDSCAPE STATEWIDE.

SOME OF THE AREAS WE IDENTIFIED IN POSSIBLE NEED OF CHANGE INCLUDE: BILLING, 24 HOUR IN PERSON PHONE ANSWERING, AM/PM SERVICE CALLS, AVAILABILITY OF PARENTAL LOCKS, DEVICES FOR THE HEARING IMPAIRED, REQUIREMENTS FOR DEPOSITS RETURNED EXPEDIOUSLY

AND BILLING ERRORS CORRECTED IN TIMELY FASHION WITH INTEREST TO ACCRUE OTHERWISE...REQUIREMENTS FOR MAXIMUM RESPONSE TIME ON INSTALLATIONS, TECHNICAL ON CALL EMERGENCY ASSISTANCE TO PLANT ON A 24 HOUR BASIS ARE ADDITIONAL AREAS OF SUBSCRIBER RIGHTS ON WHICH WE HAVE ELICITED COMMENTS. ADDITIONALLY ON THE MATTER OF PUBLIC ACCESS, WE HAVE FOUND DISPUTES OVER THE USE OF ACCESS CHANNELS AND MAY CONCURRENTLY DEVELOP A RULE FOR OPERATION OF THESE CHANNELS.

ALTHOUGH THE BOARD THRU THE OCTV DETERMINED THE 555 "CABLED COMMUNITIES" CABLE ACCESS CHANNELS NEEDS MAY BEST BE DETERMINED LOCALLY THRU THE RENEWAL PROCESS, THIS DOES NOT MEAN THE OFFICE WILL NOT CONTINUE TO STUDY THE MINIMUM NUMBER OF ACCESS CHANNELS, AND AS I SAID, RECOMMEND TO OUR BOARD RULES FOR THE USE, MANAGEMENT, OPERATION AND FUNDING OF THESE CHANNELS.

THERE ARE SOME CONSUMER ISSUES WHICH ARE NOT ADDRESSED IN OUR PREPROPOSAL. WHEN ISSUES ARE BEYOND THE SCOPE OF OUR REGULATORY JURISDICTION, THE OFFICE CAN SUGGEST TO OUR BOARD THAT THEY RECOMMEND LEGISLATIVE ACTION. ISSUES WHICH MAY BE APPROPRIATELY ADDRESSED IN THE FEDERAL ARENA INCLUDE RATES AND PROGRAMMING----TWO KEY CONSUMER ISSUES. HOWEVER, AS THE FRANCHISING AUTHORITY IN THE STATE AND ONE OF ONLY NINE STATES WITH ANY STATEWIDE REGULATORY FRAMEWORK, WE SHOULD AND DO SHARE EMPIRICAL DATA THAT ASSISTS IN THE FORMATION OF FEDERAL POLICY.

8x

ON THE ISSUE OF COMPETITION, THE BOARD HAS PREVIOUSLY SPOKEN IN FAVOR OF COMPETING CABLE SYSTEMS BUT WITH GREAT CONCERN FOR ENCOURAGING GENUINE COMPETITION AND DISCOURAGING "GREENMAIL" OR APPLICANTS WITH NO INTENTION TO FOLLOW THROUGH. THE BOARD HAS STATED THAT SECOND ENTRANTS SHOULD BE SUBJECT TO THE SAME STANDARDS AS THE INITIAL FRANCHISEE IN REGARD TO SUCH ISSUES AS THE ESTIMATIONS OF POLE PLANT COSTS ARE PARTICULARLY IMPORTANT IN THESE CASES TO ASSESS THE DISRUPTION INVOLVED FOR UTILITIES, OTHER CABLE COMPANIES, AND THE COMMUNITY IN GENERAL.

ADDITIONALLY, THE BOARD FILED COMMENTS IN OCTOBER OF 1988 SUPPORTING TELEPHONE OWNERSHIP OF CABLE SYSTEMS PROVIDED IT IS DONE WITH ADEQUATE SAFEGUARDS TO PREVENT CROSS SUBSIDIZATION AND PROVIDED TELEPHONE COMPANIES ARE NOT PERMITTED TO ACQUIRE EXISTING CABLE SYSTEMS AND ARE REQUIRED TO RECEIVE CERTIFICATES OF APPROVAL AND THE BOARD CURRENTLY IS REASSESSING THIS POLICY.

ON THE ISSUE OF FRANCHISE FEES, THERE IS MORE THAN ONE CONSUMER OPINION.

DURING THE PAST YEAR, THE OCTV HAS FOUND INCREASED DESIRE ON THE PART OF SOME MUNICIPAL COMMITTEES AND EDUCATIONAL ENTITIES FOR LIFTING THE FRANCHISE FEES ABOVE THE STATE'S 2% BASIC SERVICE REVENUE CAP.

FEDERAL LAW PERMITS THE FEES TO BE AS HIGH AS 5% OF GROSS REVENUE.

9x

THE ORIGINAL STATE CABLE TELEVISION ACT ESTABLISHED MUNICIPAL FRANCHISE FEES AT 2% OF REVENUE FOR BASIC MONTHLY SERVICE (N.J.S.A. 48:5A-30).

THE ACT ALSO PERMITS UP TO AN ADDITIONAL 2% OF GROSS REVENUES FOR A STATE ASSESSMENT OF CABLE OPERATOR'S TO FUND THE OPERATION OF THE OCTV (N.J.S.A. 48:5A-32, 33, 34).

THESE AMOUNTS WERE BASED ON FCC LIMITS THEN IN EFFECT WHICH CONTROLLED THE CAP AT THE TIME OF THE STATE ACT IN THE EARLY 70'S.

SINCE, IN 1984, FEDERAL LAW EXPANDED THE TOTAL FEE CAP REVENUE BASE TO GROSS REVENUES AND THE ALLOWABLE PERCENTAGE TO 5%.

IT IS WITHIN THE DISCRETION OF THE LEGISLATURE TO REVISE THE FRANCHISE FEES. THERE ARE CURRENTLY BILLS IN THE STATE LEGISLATURE TO INCREASE THE FRANCHISE FEE. SENATE NO. 464, ASSEMBLY NO 2932.

BECAUSE THE OCTV OPERATES ON THE STATE ASSESSMENT, THAT 2% MUST BE LEFT INTACT TO ALLOW CONTINUED OPERATION AND PERHAPS FUTURE EXPANSION OF THE OFFICE'S DUTIES. THUS, THE EFFECTIVE MAXIMUM AVAILABLE FOR MUNICIPAL PURPOSE WOULD BE 3% OF GROSS REVENUES.

CURRENTLY, UNDER FEDERAL LAW, ANY FRANCHISE FEE CAN BE PASSED DIRECTLY THROUGH TO SUBSCRIBERS. THEREFORE, THE OFFICE HAS BEEN AND IS CONCERNED ABOUT RECOMMENDING TO THE BOARD WHAT COULD BECOME A RATE INCREASE AND AN ISSUE OF SUBSCRIBER CONTROVERSY.

IN REGARD TO THE DISSEMINATION OF FRANCHISE FEES COLLECTED -- IN SOME INSTANCES LEGISLATION IS BEING CONSIDERED THAT WOULD REQUIRE LOCAL MUNICIPALITIES TO SPEND 50% OF ALL FRANCHISE FEES ON CABLE TV RELATED PURPOSES OR REFUND THEM TO THE SUBSCRIBERS. UNDER THE LAW NOW, FEES CAN BE USED FOR ANY GENERAL PURPOSE FUND.

ALSO IN THE AREA OF LEGISLATIVE OPTIONS, THE OFFICE HAS NO JURISDICTION OVER SMATV SYSTEMS. WHILE WE SEE THE EXISTING STATE ACT AS GIVING AUTHORITY OVER SMATV SYSTEMS, FEDERAL LAW PRE-EMPTS LOCAL REGULATION UNLESS THE CABLE SYSTEM USES THE PUBLIC RIGHTS OF WAY. THIS PRECLUDES SOME, NOT ALL, FROM REGULATION OF ANY KIND.

HOWEVER, WHILE WE MAY NOT REQUIRE THE FRANCHISING OF THESE SMATV OPERATORS, LEGISLATION CAN PERHAPS WORK TOWARDS ADOPTING CONSUMER PROTECTION STANDARDS TO SET MINIMAL SERVICE STANDARDS TO COUNTER THE FRUSTRATION WE ENCOUNTER FROM DISSATISFIED SMATV SUBSCRIBERS WITH OFTEN NO RECOURSE.

ON THE ISSUES OF VERTICAL INTEGRATION, REFERRING TO THE OWNERSHIP AND AFFILIATED INTERESTS BETWEEN THE CABLE SYSTEM AND ONE OR MORE PROGRAM SERVICES, WHILE THE BOARD HAS NO JURISDICTION OVER PROGRAMMING, CONSUMER COMPLAINTS AND DISSATISFACTION AND MUNICIPAL ACTIONS THE BOARD IS AWARE OF THE COMPLAINTS AND CONCERNS.

THE FIRST AMENDMENT VIRTUALLY PRECLUDES US AS A FRANCHISING AUTHORITY FROM ANY ROLE IN PROGRAM REGULATION. HOWEVER WHERE VERTICAL INTEGRATION LIMITS SUBSCRIBERS OPTIONS, WE COULD ASK THE FEDERAL GOVERNMENT TO SCRUTINIZE THE EVOLVING INDUSTRY STRUCTURE FOR ANTI TRUST AND RESTRAINT OF TRADE VIOLATIONS.

SIMILARLY, THERE IS CONCERN NATIONALLY AND STATEWIDE WITH THE INCREASED CONCENTRATION OF OWNERSHIP. THE SUBSCRIBER BENEFITS FROM THE ECONOMIES OF SCALE IN PROGRAM RATES AND AVAILABILITY, BUT THE BOARD IS AWARE OF THE CONCERNS.

IN SUMMARY MAY I ADD I BELIEVE THIS IS A CRUCIAL TIME FOR PARTICIPATION IN THESE CONSUMER ISSUES.

IN ADDITION TO THE STUDIES, REPORTS, TABULATIONS WHICH THE OFFICE HAS PROVIDED FOR YOUR REVIEW TODAY, YOUR OWN THOUGHTS ON LEGISLATIVE ACTION WILL HELP IN SHAPING THE CABLE LANDSCAPE IN OUR STATE. I OFFER THE ASSISTANCE OF MY OFFICE IN IDENTIFYING ASPECTS OF REGULATION (FEDERAL OR STATE) WHICH WORK TO THE DISFAVOR OF CABLE CONSUMERS. SINCE, WE BOTH HAVE MONITORING OVERSIGHT RESPONSIBILITIES, I BELIEVE WE CAN MAKE INFORMED DECISIONS REGARDING THE EVOLUTION OF CABLE TELEVISION, IF WE SHARE PERTINENT DATA. TOGETHER WE CAN PERHAPS EASE THE TENSION INHERENT IN THE TWO GOALS: DELIVERY OF THE HIGHEST LEVEL OF SERVICE TO THE PUBLIC WHILE BEING RESPONSIVE TO CONSUMER CONCERNS REGARDING PRICE AND QUALITY.

TO WHOM IT MAY CONCERN;

FIRSTLY, I APPLAUD NORTH BERGEN FOR ITS DECISION TO TAKE RIVERVIEW CABLEVISION TO COURT CONCERNING THEIR PLANS TO SCRAMBLE THEIR SIGNAL ON APRIL 1ST. I URGE THE OTHER FOUR TOWNS TO JOIN IN THIS SUIT TO MAKE A STRONGER CASE.

I WOULD SUGGEST THE PLAINTIFF(S) CONTACT THE MAJOR TELEVISION AND VIDEO RECORDER MANUFACTURERS AND RETAILERS ABOUT JOINING THE SUIT, SINCE THEY TOO, HAVE A VESTED INTEREST. I HAVE DONE THIS PRIVATELY TO NO GREAT SUCCESS.

SHOULD RIVERVIEW SUCCEED WITH ITS PLANS, OTHER OPERATORS WOULD DOUBTLESSLY JOIN IN THIS WINFALL, PERHAPS NATION-WIDE OR EVEN GLOBALLY. PEOPLE WOULD NO LONGER PURCHASE TOP-OF-THE-LINE EQUIPMENT, SINCE THOSE FEATURES WOULD NOT BE POSSIBLE, BUT CHOOSE RATHER, BASIC UNITS OF LITTLE PROFIT. SALES WOULD SUFFER, RESEARCH AND DEVELOPMENT FUNDS WOULD DRY UP, THE INDUSTRY COULD STAGNATE. I CONSIDER THIS RESTRAINT OF TRADE.

THE REVENUE RIVERVIEW SAYS IT IS LOSING BY CABLE THEFT IS GREATLY EXAGGERATED. THE NEW REVENUE IT HOPES TO ACHIEVE THROUGH THE EXTRA CONVERTER BOX/REMOTE RENTAL WOULD FAR OUTSTRIP ANY PRIOR LOSSES, BUT THIS EXTRA INCOME SAVINGS WOULD NOT BE PASSED ON TO THE CONSUMER, WHO SHOULD NOT HAVE THE BURDEN OF SUBSIDIZING THE CABLE THIEVES. ACCORDING TO JOE FISCHER, ANY VCR OWNER (80% OF US) IS A THIEF, MERELY BY TIME-SHIFTING. WE SHOULD NOT PAY A PENALTY IN ORDER TO WATCH TWO (OR THREE) SIMULTANEOUS GOOD SHOWS. IT IS THEIR MONOPOLISTIC ATTITUDE THAT FROWNS UPON COMPETITION.

RIVERVIEW, FURTHERMORE, SHOULD NOT BE ALLOWED TO CHARGE EXTRA FOR IN-HOME SPLICES AND REMOTE SET HOOK-UPS. IF THE

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2) TELEPHONE COMPANY SEES NO REASON TO CHARGE EXTRA FOR A BEDROOM PHONE, THEN A BEDROOM TV SHOULD NOT BE EXTRA EITHER. A CABLE TELEVISION OPERATOR SHOULD MAKE LIFE EASIER FOR ITS CUSTOMERS, SOME VERY LONG-TIME SUBSCRIBERS, NOT COMPLICATE THEIR LIVES.

THIS WRETCHED COMPANY CONTINUALLY ESPOUSES THEIR LINE OF BOVINE EXCREMENT WITH AN UNDERLYING TONE OF "BENEFITTING THE SUBSCRIBER"; WHEN ANYONE WITH AN I. Q. HIGHER THAN THAT OF A WAFFLE IRON KNOWS THIS PLAN WAS DEVISED SOLELY FOR REVENUE ENHANCEMENT.

FOR THIS REASON, I WISH TO STATE FOR THE RECORD THAT IT IS MY WISH OF COMPETITION WITHIN THE CITY LIMITS OF AT LEAST TWO CABLE OPERATORS SERVING THE SAME JURISDICTION, SO THAT THIS CRISIS MAY NEVER AGAIN ARISE. ALLOWING ANY COMPANY TO HAVE THE FIELD BY ITSELF IS TOO GREAT A TEMPTATION TO USURP ITS POWERS AND FOIST ITS WILL UPON ITS CUSTOMERS. IT WASN'T GOOD FOR TELEPHONE CUSTOMERS, AND IT'S NOT GOOD FOR CABLE SUBSCRIBERS. WE NEED STRICTER CONTROL FOR AN INDUSTRY GONE WILD. THEY REFUSE TO POLICE THEMSELVES, SO WE MUST POLICE THEM.

STOP THE SCRAMBLING,

Theodore J. Dylewski

THEODORE J. DYLEWSKI
92 Jefferson Street
Hoboken, NJ 07030

14X

Legislative
Viewpoint



JOHN E. TRAFFORD, Executive Director
WILLIAM G. DRESSEL, JR., Asst. Executive Director
JON R. MORAN, Senior Legislative Analyst
CHRISTOPHER CAREW, Legislative Analyst
HELEN YELDELL, Legislative Analyst

March 7, 1990

Hon. David C. Kronick, Chairman
Assembly Consumer Affairs Committee
7911 Bergenline Avenue
North Bergen, NJ 07047

Re: Cable T.V. Regulation

Dear Mr. Kronick:

Please accept the enclosed testimony, which was recently presented on the League's behalf to the Board of Public Utilities. We respectfully request that this be placed in the record of your committee's hearing on Cable Television issues, since we will be unable to attend that hearing on Wednesday evening, March 7, in North Bergen.

We believe that many of the recommendations discussed in this testimony would form appropriate issues for legislative response. We sincerely hope that you agree.

I apologize for our failure to attend your important hearing. But, be assured that we stand ready to assist you in any efforts to reform New Jersey's cable regulation framework.

Thank you for your consideration.

Very truly yours.

Jon R. Moran
Senior Legislative Analyst

JRM/chb

cc: Hon. Neil M. Cohen, Vice-Chairman
Hon. James E. McGreevey, Assemblyman, District 19
Hon. Marion Crecco, Assemblywoman, District 30
Hon. Walter J. Kavanaugh, Assemblyman, District 16
Mr. David L. Sallach, Committee Aide

— SERVING MUNICIPAL GOVERNMENT IN NEW JERSEY FOR 75 YEARS —

15X



407 WEST STATE STREET, TRENTON, N.J. 08618

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(609) 695-3481

JOHN E. TRAFFORD, *Executive Director*

WILLIAM G. DRESSEL, JR., *Asst. Executive Director*

STATEMENT OF JIM CASTLE
MEMBER OF THE BOROUGH COUNCIL, ROCKY HILL
CHAIRMAN OF THE CABLE ISSUES STEERING COMMITTEE
CONCERNING AMENDMENT AND READOPTION OF CHAPTER 18
REGULATIONS OF THE OFFICE OF CABLE TELEVISION
TUESDAY, FEBRUARY 20, 1990 AT 10:00 A.M.
BOARD HEARING ROOM
TWO GATEWAY CENTER
NEWARK, NEW JERSEY

GOOD MORNING, LADIES AND GENTLEMEN. MY NAME IS JIM CASTLE. I AM A MEMBER OF THE BOROUGH COUNCIL IN ROCKY HILL AND I AM, ALSO, CHAIRMAN OF THE CABLE ISSUES STEERING COMMITTEE OF THE NEW JERSEY STATE LEAGUE OF MUNICIPALITIES. IT IS IN THAT LATTER CAPACITY THAT I APPEAR BEFORE YOU, TODAY.

FOR THOSE OF YOU WHO DO NOT KNOW, THE LEAGUE IS A VOLUNTARY, STATEWIDE ASSOCIATION OF OUR STATE'S CITIES, TOWNS, TOWNSHIPS, BOROUGH AND VILLAGES. OUR CURRENT MEMBERSHIP INCLUDES 561 OF NEW JERSEY'S 567 MUNICIPALITIES AND WE ARE, THIS YEAR, CELEBRATING OUR 75TH ANNIVERSARY.

WE, AS A LEAGUE, FOCUS ON ISSUES THAT AFFECT ALL OF US -- BOTH LARGE AND SMALL, IRRESPECTIVE OF WHETHER WE ARE URBAN, RURAL OR SUBURBAN COMMUNITIES. AND, TOGETHER, WE TRY TO SOLVE OUR COMMON PROBLEMS. DIRECTLY, THE LEAGUE REPRESENTS THE OWN 4,000 MEN AND WOMEN WHO WERE ELECTED TO SERVE THEIR FELLOW CITIZENS IN LOCAL OFFICE. INDIRECTLY, WE ALSO SERVE THE MILLIONS OF NEW JERSEYANS WHO FINANCE LOCAL OPERATIONS THROUGH THE PROPERTY TAX.

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I AM HAPPY TO BE ABLE TO OFFER YOU THE MUNICIPAL PERSPECTIVE ON THE READOPTION AND POSSIBLE AMENDMENT OF THE OFFICE OF CABLE TELEVISION'S SUBSTANTIVE REGULATIONS.

FIRST, WE BELIEVE THAT THE CABLE INDUSTRY SHOULD BE REGULATED LIKE ANY OTHER PUBLIC UTILITY. WE HAVE NO DOUBT THAT THIS WOULD BE IN THE BEST INTEREST OF THE PEOPLE OF OUR STATE. THE THEORETICAL BASIS FOR ANY OTHER TREATMENT IS DWARFED BY THE PRACTICAL FACT THAT CABLE HAS BECOME AN ESSENTIAL SOURCE OF INFORMATION, ON WHICH A DEMOCRATIC ELECTORATE MUST BASE THEIR DECISIONS ON PUBLIC POLICY. LIKE IT OR NOT, FOR THE INFORMED VOTER, SERVICES LIKE C-SPAN AND CNN HAVE BECOME A NECESSITY. AND, EVEN IF YOU DISAGREE WITH THAT CONTENTION, THERE CAN BE NO DOUBT THAT TO THE INDIVIDUAL SUBSCRIBER THE CABLE FRANCHISE REPRESENTS A MONOPOLISTIC MONOLITH. THE SUBSCRIBER WANTS THE SERVICE, BUT MUST ACCEPT IT AS IT IS PROVIDED BY THE LOCAL OPERATOR. IN OTHER WORDS, ONCE THE DECISION IS MADE TO PURCHASE THE SERVICE, THE INDIVIDUAL LOSES THE FREEDOM OF CHOICE. HE OR SHE IS FORCED TO ENTER A NON-COMPETITIVE MARKET PLACE. FOR THIS, IF FOR NO OTHER REASON, CABLE SHOULD BE REGULATED LIKE ANY OTHER PUBLIC UTILITY.

OUR SECOND SET OF SUGGESTIONS RELATES TO SUBCHAPTER 3 OF THE REGULATIONS AND DEALS WITH SUBSCRIBER RIGHTS. IT IS IMPORTANT THAT THE LINES OF COMMUNICATION AMONG ALL INTERESTED PARTIES BE KEPT OPEN. THESE PARTIES (OCTV, THE CABLE OPERATOR, THE MUNICIPALITY AND THE PUBLIC) SHOULD BE GIVEN NOTICE OF, AND THE OPPORTUNITY TO COMMENT ON, ANY

17x

PROPOSED CHANGES IN THEIR MUTUAL RELATIONSHIPS. THE CABLE OPERATOR SHOULD BE REQUIRED TO NOTIFY THE MUNICIPALITY AND THE SUBSCRIBERS OF ANY PROPOSED RATE CHANGE, PROGRAMMING CHANGE, CHANGE OF OWNERSHIP, ETC. FURTHER, PRIOR TO ANY SUCH CHANGE, A PUBLIC HEARING SHOULD BE REQUIRED. WE WOULD, ALSO, LIKE TO SEE MORE INFORMATION DISSEMINATED BY THE OFFICE OF CABLE TELEVISION. FOR EXAMPLE, WE WOULD LIKE TO SEE AN ANNUAL REPORT ON STATEWIDE CABLE SUBSCRIPTION RATES. FURTHERMORE, OCTV SHOULD ANNUALLY NOTIFY THE MUNICIPALITY OF COMPLAINTS RECEIVED AGAINST ITS OPERATOR, AND THE DISPOSITION THEREOF.

THE CABLE OPERATOR SHOULD BE REQUIRED TO MAINTAIN A COMPLAINT FILE FOR THE DURATION OF THE FRANCHISE PERIOD, RATHER THAN FOR ONE YEAR. THIS IS NEEDED SO THAT THE MUNICIPALITY CAN MORE ACCURATELY ASSESS AN OPERATOR'S PAST PERFORMANCE DURING REFRANCHISING. AND WE WOULD LIKE THE OCTV TO PROVIDE GUIDANCE TO THE MUNICIPALITY ON THE EVALUATION OF AN OPERATOR'S PAST PERFORMANCE, DURING THAT REFRANCHISING PERIOD.

WITH REGARDS TO SUBSCRIBER'S RIGHTS, AND IN LIGHT OF THE FACT THAT THE CONSUMER IS FORCED TO DEAL WITH AN EFFECTIVE MONOPOLY, WE BELIEVE THAT FURTHER REGULATION OF THE OPERATOR'S SERVICE RESPONSIBILITIES ARE NEEDED. FOR EXAMPLE, THE CABLE OPERATOR SHOULD BE REQUIRED TO MAINTAIN A COMPLAINT OFFICE IN REASONABLE PROXIMITY TO THE SERVICE AREA. THAT OFFICE SHOULD BE STAFFED 24 HOURS A DAY, SO THAT SUBSCRIBER COMPLAINTS CAN BE RECEIVED AND REMEDIATION EFFORTS CAN BY COMMENCED TO THE SUBSCRIBER'S SATISFACTION.

FURTHER, WE BELIEVE THAT THE OPERATOR SHOULD BE REQUIRED TO PROVIDE AN AUTOMATIC CREDIT TO THE SUBSCRIBER FOR ANY OUTAGES AND DIMINISHMENT OF PICTURE OR SOUND QUALITY, FOR WHICH THE OPERATOR IS RESPONSIBLE. WHEN FACED WITH A MONOPOLY, WE BELIEVE THAT THE CONSUMER SHOULD BE FREE FROM THE REQUIREMENT THAT HE OR SHE MUST NOTIFY THE COMPANY BEFORE ANY CREDITS ARE GRANTED. WE NEED TO PROTECT THE SUBSCRIBER, NOT THE MONOPOLY. WE WOULD BE HAPPY TO WORK WITH YOU ON THE DEVELOPMENT OF APPROPRIATE TECHNICAL STANDARDS.

ALSO, WITH RESPECT TO CONSUMER RIGHTS, WE BELIEVE THAT SUBSCRIBERS SHOULD BE GIVEN A GRACE PERIOD FOR THE PAYMENT OF OVERDUE BILLS, WITHOUT PENALTIES OR OTHER CHANGES. OTHER UTILITIES EXTEND SUCH A COURTESY TO THEIR CUSTOMERS. WE BELIEVE, HERE AGAIN, THAT THE CABLE COMPANY, WHICH ENJOYS A VIRTUAL MONOPOLY IN THE MUNICIPALITY, SHOULD SIMULADLY TREAT ITS SUBSCRIBERS.

WE WOULD OPPOSE THE SUGGESTION THAT A REGULATION BE ADDED TO MAKE A CONSUMER COMPLAINT TO OCTV AN AUTHORIZATION FOR THE CABLE OPERATOR TO RELEASE INFORMATION ABOUT THE COMPLAINTANT TO OCTV. THE OFFICE OF CABLE TELEVISION WAS CREATED TO POLICE THE CABLE INDUSTRY, NOT TO MAKE JUDGEMENTS ABOUT CABLE SUBSCRIBERS. TO THE EXTENT THAT SUCH JUDGEMENTS MUST BE MADE, THEY SHOULD NOT BE BASED ON POTENTIALLY CONFIDENTIAL INFORMATION PROVIDED BY A PARTY WITH AN ADVERSE INTEREST IN THIS MATTER.

FINALLY, WITH REGARDS TO CONSUMER RIGHTS, WE BELIEVE THAT ALL

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SYSTEMS -- NOT ONLY THOSE "OVER A THRESHOLD SIZE" -- SHOULD HAVE A TECHNICIAN ON THE JOB 24 HOURS A DAY TO PROVIDE EMERGENCY SERVICE TO THE DISTRIBUTION PLANT. AND WE BELIEVE THAT THE TERM "DISTRIBUTION PLANT" SHOULD BE BROADLY DEFINED.

OUR THIRD SET OF CONCERNS ARE RELATED TO OPERATOR RIGHTS. WE WOULD LIKE TO SEE GREATER SPECIFICITY ON THE SUGGESTED OPERATOR RIGHTS TO REFUSE TO CONNECT AND ON THE BASIS FOR DISCONNECTION. AND, WE BELIEVE THAT REGULATION 14:18 - 3.8 (A) SHOULD BE RESCINDED. THE CABLE OPERATOR SHOULD HAVE NO RIGHT TO REASONABLE ACCESS TO THE SUBSCRIBER'S PREMISES. SUCH ENTRY IS, IN FACT, A PRIVILEGE; AND SHOULD BE EXERCISED ONLY AT THE INVITATION OF THE SUBSCRIBER. IT SEEMS TO US THAT THIS REGULATION IS CLEARLY IN VIOLATION OF THE FOURTH AMENDMENT. CABLE COMPANIES SHOULD INSTRUCT THEIR EMPLOYEES, AND INFORM THEIR CUSTOMERS, THAT THE OPERATOR HAS NO SUCH RIGHT. ALL OTHER OPERATOR RIGHTS SHOULD BE CLOSELY CIRCUMSCRIBED BY CAREFUL DEFINITION OF TERMS.

ON THE OTHER HAND, WE BELIEVE THAT OCTV SHOULD CONSIDER A CLEARER DEFINITION OF SUPPLIER AND SUBSCRIBER RESPONSIBILITY. SPECIFICALLY, THE CUSTOMER SHOULD BE RESPONSIBLE FOR ALL CABLE T.V. WIRING AND EQUIPMENT (INCLUDING CONVERTERS, JACKS AND SPLITTERS) JUST AS HE OR SHE IS NOW RESPONSIBLE FOR THE INTERNAL WIRING AND EQUIPMENT USED TO DELIVER THE SERVICES PROVIDED BY ALL OTHER UTILITIES. PURSUANT TO THIS, THE CUSTOMER SHOULD HAVE THE RIGHT TO PURCHASE OR LEASE SUCH

EQUIPMENT AS IS REQUIRED OR NECESSARY FROM ANY VENDOR. AND, THE RIGHT OF THE CABLE COMPANY TO CONTROL AND CHARGE FOR WIRING AND EQUIPMENT SHOULD TERMINATE AT THAT POINT WHERE THE CABLE ENTERS THE DOMICILE OF THE SUBSCRIBER.

WE REALIZE THAT SOME OF THESE CONCERNS MAY GO BEYOND THE SCOPE OF THIS HEARING, BUT WE BELIEVE THAT THIS IS AN APPROPRIATE FORUM FOR PLACING THESE CONCERNS ON THE TABLE.

WITH THAT IN MIND, LET ME STATE WE WOULD LIKE TO SEE OCTV IMPROVE ITS ENFORCEMENT EFFORTS. SPECIFICALLY, WE SUGGEST GREATER TECHNICAL QUALITY ENFORCEMENT, WITH RANDOM AND UNANNOUNCED TESTING. WE BELIEVE THAT THESE EFFORTS COULD BE MADE SELF-SUPPORTING BY LEGISLATING FINES AGAINST OPERATORS FOR POOR TECHNICAL PERFORMANCE. WE WOULD, FURTHER, LIKE TO SEE PERFORMANCE BOND TYPE PROVISIONS, APPLICABLE TO CABLE OPERATORS.

WE BELIEVE THAT THE MUNICIPALITY SHOULD HAVE FRANCHISING AUTHORITY OVER THE TRANSFER OF OWNERSHIP OF A FRANCHISE. WE WOULD APPRECIATE ANY MOVE THAT OCTV COULD TAKE, IN THAT DIRECTION. SUCH TRANSFERS CAN HAVE A PROFOUND EFFECT ON LOCAL SERVICE AND, ESPECIALLY, ON LOCAL RATES. ACCORDINGLY, WE BELIEVE THAT THE FRANCHISING AUTHORITY SHOULD HAVE SOME OVERSIGHT ON THESE TRANSACTIONS.

WE BELIEVE THAT CABLE SYSTEMS SHOULD BE UPGRADED AND THE OPERATOR

REQUIRED TO PASS ALONG, IN STEREO, ANY SIGNAL WHICH IT RECEIVES
IN STEREO, WITHIN A REASONABLE TIME, AT NO ADDITIONAL CHARGE TO THE
SUBSCRIBER.

FINALLY, THE ADVISORY COMMITTEE MANDATED BY THE STATUTES (N.J.S.A.
48:51-12) SHOULD BE APPOINTED AND SHOULD BEGIN A REGULAR MEETING
SCHEDULE.

THAT CONCLUDES MY STATEMENT. AGAIN, I THANK YOU FOR THIS
OPPORTUNITY. AND, I WOULD BE HAPPY TO TRY TO ANSWER ANY QUESTIONS.

JRM/chb