

The Cable Act of 1992

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15. *Id.*

16. See Gundersen, *supra* note 11.

17. See Paul Schnitt, *Performers Back Bill Labeling Canned Music*, SACRAMENTO BEE, May 30, 1991, at D1. (Jerry Murphy, president of American Federation of Musicians Local 12, voiced concern that machines were replacing musicians).

18. Paul Verna, *Musicians' Union Endorsing Lip Sync Disclaimers in Advertising*, ST. PAUL PIONEER PRESS DISPATCH, Mar. 23, 1991, at 7B.

19. See S.B. 183, 1992 Ky.; S.B. 87, 177th Leg., Reg. Sess., 1992 Mass.; S.B. 9, 141st Leg., 2d Reg. Sess. 1991 Ga.; H.B. 1638, 87th Leg., 1991 Ill.; 1991 Mich. S.B. 82, 86th Leg., 1991 Mich.; A.B. 4962, 214th Leg., 2d Reg. Sess., 1991 N.Y.; H.B. 661, 175th Leg., 1991 Penn.; H.B. 1844, 52nd Leg., 1991 Wash.

20. See Cal. A.B. 118, 1991 Cal.; H.B. 661, 1991 Pa.

21. See 1992 N.H. Laws Ch. 357-F.

22. *Id.* at 1(I).

23. *Id.* at F:2.

24. *Id.* at F:3.

25. *Id.* at F:4.

26. *Id.* at F:2.

27. *Id.* at F:2(I).

28. *Id.* at F:3(I).

29. *Id.* at F:3(II)(B).

30. *Id.* at F:4.

31. See *Id.* at F:3-4.

32. *Id.* at F:5.

33. See N.H. Rev. Stat. Ann. § 651-2 (Supp. 1992).

34. 1992 N.H. Laws Ch. 357-F:2.

35. See S. 87, 177th Leg., 1992 Mass.; H.B. 1638, 87th Leg., 1991 Ill.

36. See S. 87, 177th Leg., 1992 Mass.; H.B. 1638, 87th Leg., 1991 Ill.

37. S.B. 87, 1992 Mass.

38. A.B. 118, 1991 Cal.

39. See S.B. 87, 1992 Mass.; A.B. 118, 1991 Cal.; H.B. 1638, 1991 Ill.; S.B. 82, 1991 Mich.

40. See A.B. 118, 1991 Cal.

41. 1992 N.H. Laws Ch. 357-F.

42. S.B. 87, 1992 Mass.

43. See H.B. 1638, 1991 Ill., S.B. 82, 1991 Mich.

44. S.B. 82, 1991 Mich.

45. Siegel v. Pilatus, No. 90 CH 11439, (Cir. Ct., Cook Cty. 1991).

46. *Fraud Claims against Milli Vanilli Market Can't Proceed as Class Action*, 62 ANTITRUST & TRADE REG. REP. (BNA) 541.

47. See Siegel v. Pilatus, No. 90 CH 11439, (Cir. Ct., Cook Cty. 1991).

48. The New Hampshire law and the proposed bills are criminal statutes which place no burden on the performer. See *supra* note 20.

49. Numerous states dismissed class action suits against Milli Vanilli. Larry Drury, Remarks at the John Marshall Law School Entertainment Law Symposium, Oct. 15, 1992.

50. See Gundersen, *supra* note 11. (Thom Duffy of Billboard magazine says young concertgoers expect MTV-quality performances).

51. Handelman, *supra* note 12.

52. Gundersen, *supra* note 11. (Comment of concert promoter Dave Hart, of the Nederlander Organization, which promotes concerts throughout the country).

53. Laura Van Tuyl, *Issues of Music Ethics Grow with Advancing Technology*, CHRISTIAN SCI. MONITOR, Feb. 11, 1991, at 10.

54. *Id.*

55. A.B. 118, 1991 Cal.

56. See *supra* note 9.

57. *Id.*

58. *Id.*

59. See Jolson-Coburn, *supra* note 9.

60. See *supra*, notes 38 and 39 and accompanying text.

61. S.B. 87, 1992 Mass.

62. See *supra* note 55 and accompanying text.

THE CABLE ACT OF 1992

INTRODUCTION

The fight over the Cable Television Consumer Protection and Competition Act of 1992¹ (hereinafter "The Cable Act") pitted consumer groups and the broadcast networks against the enormous American cable television industry, resulting in a multi-million dollar lobbying and advertising campaign. Even the fabled Hollywood "cultural elite" weighed in on the debate, ironically backing its usual nemesis in the Bush White House.

This update will briefly discuss the political debate over the issue, and will analyze the more notable sections of this comprehensive consumer-oriented law. It will focus particularly on those elements of the legislation that have drawn the most attention from its opponents. The discussion will then turn to several features that are less controversial, but which will be most noticed by the average consumer. This update will conclude that, while the Act was touted by Congress and consumer groups as an immediate tonic for cable consumer concerns, the Act may actually result in higher rates, at least in the short term.

BACKGROUND

In 1984, Congress deregulated most of the American cable television industry in order to minimize the economic burdens of regulation and to "provide the widest possible diversity of information" to the cable consumer.² Indeed, the removal of that economic burden did result in capital improvements within the industry and expansion in the amount of available cable programming. For example, while the typical cable system in 1984 consisted of just 24 or fewer channels per subscriber, a typical system just six years later carried between 30 and 53 channels.³ Similarly, expenditures for programming by cable networks grew almost threefold between 1984 and 1989.⁴ Today, 60 percent of households with television, or 56 million customers overall, subscribe to cable TV, and the industry has grown a whopping 800 percent in overall sales between 1980 and 1992.⁵

Seemingly, the goals of the 1984 Act were met, if not surpassed. But all that growth did not occur without consequences. While the industry boomed, so did its customers' bills—by 61 percent from 1986 to 1992.⁶ That was almost three times the rate of inflation for the same period.⁷ The industry has been maligned not just for excessive rates, but also for inadequate customer service and technical quality. The Cable Act addresses each of these concerns.

In 1990, calls for renewed regulation arose in both houses of Congress.⁸ Those in favor charged the 1984 Act had failed to produce a competitive atmos-

phere for the industry. In fact, 97 percent of all deregulated markets presently have only one provider of cable TV.⁹ The Senate first passed its version of The Cable Act in January 1992.¹⁰ In July the House passed its own version.¹¹ A compromise bill passed the House 280 to 128, and the Senate by a vote of 74 to 25. After a presidential veto, both houses mounted a successful override effort, the first and only one during President Bush's tenure. The 74-to-25 margin in the Senate and 308-to-114 margin in the House included both Democrats and Republicans. Still, in the words of Senate Minority leader Robert Dole (R-Kan.), the Democrats' strong push for the bill was nothing more than "an effort to embarrass the President 30 days before the election."¹²

Support for the legislation was two-pronged. First, consumer groups such as the Consumer Federation of America backed the law for its hoped-for impact on skyrocketing cable rates.¹³ The major television broadcast networks also supported the bill because they stood to gain from any attempt to reign in their chief competitors in the cable industry.¹⁴ On the opposite side, the cable industry argued reregulation would actually raise rates, primarily due to a measure in the Act that allows local broadcast stations to charge local cable operators for retransmitting their programming.¹⁵ Also, the industry feared additional costs arising from the law's numerous requirements for revamped technical equipment.¹⁶ Film executives worried they would lose out on their royalty payments from the cable industry, as the cable industry would have less capital to spend purchasing programming from Hollywood.¹⁷

The advertising campaigns for both sides in this high-stakes debate took on more the flavor of a national election campaign than of a typical lobbying effort. Nationally-reported press conferences by both sides occurred on an almost daily basis as the votes in each house of Congress approached. The Sunday morning network talk shows took up the issue in depth.¹⁸ One cable outlet did not give up the fight even after enactment of the Act. Multimedia Cablevision of Wichita, Kansas, began running televised editorials ripping into Representative Dan Glickman (D-Kan.) just before the election, presumably to exact revenge for Glickman's vote in favor of reregulation.¹⁹

Interwoven within the debate was the age-old philosophical argument of regulation versus nonregulation, of more government versus less government. It was in this context that cable regulation became such a divisive issue, during a presidential campaign in which the incumbent tried to define the differences between himself and his opponent in exactly that way.

THE LEGISLATION AND ITS IMPACT

The Cable Act is a comprehensive law that addresses virtually every complaint a cable customer could make. For example, the Act includes provisions regarding such far-reaching subjects as avoiding the clutter of remote controls on customers' coffee tables to the number of customer service telephone lines a cable operator must have. In fact, the law is so detailed it leaves itself open to charges of governmental micromanagement.²⁰

This section will first deal with those elements of the Act that have drawn the most attention, namely: (1) a provision that reinstates rate regulation, (2) another that allows local broadcast stations to charge cable systems for retransmitting their programming, and (3) a measure that mandates the stations that must be carried by cable systems.²¹

A. A Renewed Regime of Rate Regulation

The centerpiece of the Act is its scheme of rate regulation.²² As discussed above, average cable rates have far outpaced the rate of inflation since deregulation in 1984. Rate regulation under the Act applies to many facets of a cable system's operations, including charges for basic programming, premium programming, equipment and service calls.²³

1. Preference for Competition

As a prerequisite for any rate regulation, the Act requires that a given cable company's market not be subject to "effective competition."²⁴ The Act defines a market subject to "effective competition" as having three main characteristics:²⁵ (1) fewer than 30 percent of households in the market are cable subscribers; (2) there are at least two unaffiliated cable operators in the market, both of which are available to at least one-half of the market's households; and (3) cable operators other than the largest market operator have at least a 15 percent combined share of the total number of subscribers.²⁶ If those conditions are not met, a cable operator is then subject to rate regulation.

This definition of "effective competition" takes into account not just the number of cable systems in a given market, but also the scope of those cable systems. Especially through factor (1) above, Congress has acted not just to promote competition between cable systems, but to protect the market share of the broadcast stations that serve a cable operator's market. However, the tripartite definition is so restrictive that only approximately five percent of the nation's cable markets meet it.²⁷

2. Guidelines for Setting Rates

The Cable Act requires that rates be "reasonable."²⁸ It mandates the Federal Communications Commission (FCC) to create guidelines for determining exactly what "reasonable rates" are.²⁹ In promul-

gating these guidelines, the FCC is to take into account a number of factors. Most notably, the Commission will look at the few cable systems that operate in competitive markets in setting a standard for reasonable rates.³⁰ The FCC will also look at the various operating costs for a given cable system, taking into account an operator's need for a reasonable profit.³¹ Because there are a number of such factors to be taken into account by the FCC in setting guidelines, the Act permits a significant amount of flexibility in its rate regulation structure.

3. Who Determines Rates for a Given Franchise?

The Act orders the FCC to set guidelines, rather than enacting exact dollar figures, for a given system's rates. Under the Act, local municipalities that franchise their cable systems will set rates and administer them, based on the FCC guidelines.³² By allowing local franchising authorities to set rates, the Act partially deflects the charge of government micromanagement. However, the FCC is empowered to disapprove of the franchising authority's rate determination if it finds that determination is not in compliance with the Cable Act.³³

Surprisingly, the cable industry did not direct most of its energy against these rate restrictions, but instead focused on other parts of the Act it said would result in higher customer rates. It was impossible for the industry to argue rate regulation alone would cost consumers through increased rates, because the regulating authority need only order them lower. Rather, the industry attacked a measure that drastically alters its relationship with the broadcasters whose signals cable systems carry.

B. Royalty Payments to Local Broadcasters

The cable industry focused on a provision in the Act that affects arrangements between local cable operators and the local stations that broadcast in their markets.³⁴ Prior to passage of the Act, local cable operators were able to retransmit the signals of local stations without making royalty payments to those stations.³⁵ The Act now gives local stations the right to charge royalties for retransmission of their signals.³⁶ The cable industry claimed that this provision would exact a toll of increased rates to customers—the opposite of the Cable Act's stated intent.³⁷

The provision may very well result in higher rates in the short term, even with the new scheme of rate regulation. Clearly, the measure will increase local operators' expenses if local stations demand royalties from them. While rates would be regulated to help protect the consumer from having this expense passed on, "reasonable rates" are to be set in part by looking at a cable operator's expenses.³⁸ Thus, if costs increase, a cable operator will be entitled to recoup

those losses through a rate increase.

But there is more to this issue than meets the eye. Congress, anticipating the criticism, defended this requirement within the Act itself: "Cable systems ... obtain great benefits from local broadcast signals which, until now, they have been able to obtain without consent... [t]his has resulted in an effective subsidy for cable systems by local broadcasters."³⁹ By implementing the royalty provision, Congress has sought to correct an inequity in the broadcasting industry. Just as the Cable Act's definition of "competition" was molded to protect non-cable broadcast stations, Congress again seems to be protecting broadcast networks and their affiliates by addressing the television industry's internal structure. It thus becomes clear that the Cable Act was not drafted solely for the immediate benefit of consumers, as its advocates have claimed.

In the short term, at least, the measure actually seems to defeat what its proponents claimed was the purpose of the Act. The Consumer Federation of America, for instance, did not support the Cable Act because it would promote equity within the industry, but because it would improve fairness to those outside the industry. That is undoubtedly why its sponsors entitled the Act "The Cable Consumer Protection Act and Competition Act"—to attract consumer support.

Clearly there is more to the Act than its consumer-oriented measures. The royalty provision is targeted at the structural inequities of the cable industry, especially as they effect broadcasters. The royalty provision seems incompatible with the immediate interests of consumers, only because it may lead to higher rates in the short term. But if it corrects the structural flaws embedded within the television industry, the result may be more effective competition, and thus a more efficient market-based television industry in the long run.

Still, support for the Act from Congress's consumer constituencies was garnered by convincing them that the Act would be a tonic for customer complaints. The royalty provision is, at least in the immediate future, incompatible with that goal.

C. Must-Carry Requirements

Another substantive feature of the Act is its "must-carry" provisions—requirements that local cable operators carry certain stations and programming.⁴⁰ The Act lays down a complex set of rules for what stations must be carried by a local cable system, based on the system's channel capacity.⁴¹ In short, stations are required to carry most if not all the broadcast stations in their market areas. The requirement implicates the First Amendment because, in a sense, it compels "speech" by a cable operator.⁴² Already, a number of suits have been filed attacking this provision of the Act on First Amendment grounds.⁴³

D. Assorted “Consumer-Friendly” Measures

The Act contains an array of measures that are meant to address the various complaints cable consumers have voiced since deregulation. Each, however, creates additional costs for cable operators, and may result in higher rates, even under regulation.

1. “Anti-Buy Through” Provision

Before the Act, cable operators were entitled to require subscribers to purchase a level of programming beyond a basic tier in order to receive premium services (such as popular channels HBO and Showtime). The Act now allows customers who only subscribe to basic services to purchase premium channels “a la carte.”⁴⁴ In other words, customers are not required to “buy through” a more expensive tier of programming in order to obtain premium stations. Cable operators argue this requirement will force many of them to provide expensive new equipment to subscribers.⁴⁵ This, they claim, will raise operating expenses, and thus consumers’ rates. The claim is offset by the fact that subscribers will specifically save money from the provision itself. In response to the industry’s complaints, the Act provides a waiver if this proposition creates “unreasonable” expenses for a cable company, but does not define the term “unreasonable.”⁴⁶

2. Customer Service Requirements

Many cable customers know the frustration of waiting for the “cable guy”—the service representative—to install or alter cable service. Typically, a cable company will give a range of several hours that the representative may arrive. A customer is thus required to set aside a large portion of a day waiting for his or her arrival. Similarly, a common complaint is that cable service customer service agents are not sufficiently accessible by telephone. The Act addresses both of these concerns by allowing local franchising authorities to set customer service standards for their cable systems.⁴⁷

3. Compatibility of Equipment

The Act also recognizes the frustration viewers experience when their remote controls and video cassette recorders are not compatible with equipment supplied by a cable company.⁴⁸ For instance, some cable systems do not permit a VCR to tape two different stations in one night without a viewer returning to reset the cable box. This defeats the VCR’s capacity to tape many different programs while its owner is away. Not only does this annoy customers, but it also creates a disincentive for customers to purchase those machines—an economically unsound situation.⁴⁹

Under the Act, the FCC may create guidelines under which cable systems will be required to reconfigure their equipment to prevent this incompatibility.

The FCC may also promulgate rules under which cable systems must be compatible with commercially available remote controls.⁵⁰ This will allow customers to use one “universal” remote to control a VCR, a television and a cable converter box. This will cut down on the “remote control clutter” prevalent in many households.

4. Negative Option Billing Prohibited

Cable customers nationwide were outraged in the summer of 1991 when TCI Cable of Denver introduced a premium channel called “Encore” with what is known as “negative option” billing.⁵¹ Customers were required to call their cable company to refuse the service and avoid billing. Usually a premium service requires a subscriber to place an affirmative order. The Act now prohibits such billing schemes.⁵²

E. The Legislation’s Impact

The Act is too detailed to list each of its measures. But the above should give an idea of the extent to which Congress has moved to reregulate a cable television industry that it believes has attained something close to a monopoly status since 1984.

On its face, the Cable Act is a consumer-oriented law. That is how it was promoted by its backers in exchange for the support of much of the nation. There is, of course, a reason it is called the “Cable Consumer Protection and Competition Act,” and not the “Cable Competition and Consumer Protection Act.” As a result, there are a great many provisions in the Act that attack specific customer complaints with the cable industry, and consumers will almost certainly notice and appreciate those elements of the statute.

Is the Cable Act really a consumer law, though? Certainly that is what most members of the Congress who voted for it will be telling their constituents back home. Meanwhile, the cable industry will undoubtedly continue to complain that the Cable Act will harm those same consumer constituents. Who is right? Ironically, it appears both sides are.

The cable industry is probably correct that the Cable Act’s royalty payment provision will increase its costs, which will in turn be passed on to cable subscribers. That would appear to counteract the consumer-oriented goals of the statute. But in the end, perhaps, that will not be the case. The average cable consumer may not notice the structural flaws within the cable industry, but is effected by them nonetheless. A measure that addresses those flaws benefits consumers in the long term if it results in a more competitive industry in years to come, even if short-term costs and rates increase. The Cable Act’s royalty provision may be just that sort of measure.

The problem, then, is not that the royalty provision contradicts the consumer-based measures of the Act, but that it does not address consumer needs with

the same immediacy as the rest of the statute. That in itself is not a problem, but for the fact that the bill was not promoted for its long-range curative measures.

The Cable Act was generally supported for its immediate remedies to specific consumer complaints. The mistake of the Act's drafters was not necessarily in including the royalty provision, but in promoting the Act as a short-term tonic. The American consumer believed it was getting immediate relief, when in reality the Act is equally aimed at long range correction. Those two interests are not necessarily compatible in the short term. As a result, consumers who expect rate relief the day after the Cable Act goes into effect may be sorely disappointed. Ten years from now, they may understand why. However, the Act was not supported by consumers for its effects ten years from now.

CONCLUSION

The Cable Television Consumer Protection and Competition Act of 1992 is a comprehensive law that attacks many of the consumer ills and high rates that have developed from eight years of industry deregulation. But while touted as an immediate cure-all to all kinds of consumer complaints, the Act also addresses long-term structural flaws of the television market. Those long range aims compromise the Act's short-term goal of rate relief. As a result, consumers who thought the Act would provide immediate rate relief will likely find their short-term needs usurped by the statute's significant modification of the cable industry.

Ron Packowitz

1. The Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1960 (1992) [hereinafter Cable Act]. Enacted October 5, 1992. Effective December 4, 1992.

2. The Cable Communications Policy Act of 1984, 47 U.S.C. §521(1)(6) (1992).

3. H.R. Rep. No. 682, 101st Cong., Sess. 29 (1990). Today systems with 75 channels are common. Residents in Queens, New York enjoy 150 channels. Edmund L. Andrews, *Cable Bill approved by Senate*, N.Y. TIMES, Sept. 23, 1992, at D1.

4. H.R. No. 682, *supra* note 3, at 29.

5. Andrews, *supra* note 3.

6. Elaine S. Povich, *Fierce Fight as Industry Tries to Zap Cable TV Bill*, CHI. TRIBUNE, Sept. 17, 1992, § 1 at 1, 18.

7. Dennis Camire, *House Panel Sets Stage for Cable TV Debate*, GANNETT NEWS SERVICE, July 22, 1992.

8. House Report, *supra* note 3, at D2.

9. 138 CONG. REC. H8321 (daily ed. Sept. 14, 1992) (H.R. Conference Report).

10. S.12, 102nd Cong., 2nd Sess., Jan. 31, 1992. Search of LEXIS, LEGIS library, Bill Tracking file (Dec. 14, 1992).

11. H.R. 4850, 102nd Cong., 2nd Sess., July 23, 1992. Search of LEXIS, LEGIS library, Bill Tracking file (Dec. 14, 1992).

12. Dennis Camire, *Congress Hands Bush Defeat on Cable TV Bill*, CHI. SUN-TIMES, Oct. 6, 1992, at 3.

13. Andrews, *supra* note 3, at D1.

14. Edmund L. Andrews, *A Mixed Signal for Consumers; Cable TV Bill Provides Only Limited Regulation of Rates*, N.Y. TIMES, Oct. 6, 1992, at A18.

15. Cable Act, *supra* note 1, at § 6.

15. CONG. REC. H8321, *supra* note 9.

16. Edmund L. Andrews, *Cable Bill Approved by Senate*, N.Y. TIMES, Sept. 22, 1992, at D1.

17. "This Week with David Brinkley" (ABC television broadcast, Oct. 11, 1992).

18. Craig Winneker, *Cable Firm Launches Air War on Glickman*, ROLL CALL, Oct. 15, 1992.

19. 138 CONG. REC. H6501 (daily ed. July 23, 1992) (statement of Rep. Schaefer).

20. A number of the Act's measures are beyond the scope of this article. Most notable of these is a provision that creates new restrictions on cross-ownership of cable systems and other structures within the communications industry. See Cable Act, *supra* note 1, at § 11(a).

21. Cable Act, *supra* note 1, at § 3(a).

22. *Id.*

23. *Id.*

24. *Id.*

25. Recent Federal Communications Commission measures are attempting to increase competition to the cable industry through other means of video delivery. For example, on July 19, 1992, the FCC issued a recommendation promoting what is known as "video dialtone." This would allow telephone companies to transmit video through phone lines. Ideally, the system would compete directly with cable television. *Action in Docket Case, Local Telephone Companies to be allowed to Offer Video Dialtone Services*, 1992 FCC Lexis 4055. Other attempts to increase competition are found in the Act itself. It requires premium services such as HBO, Showtime or pay-per-view services to make their programming available to alternative television sources, such as video dialtone. It also prohibits cities from granting exclusive franchises to individual cable operators. Cable Act, *supra* note 1, at § 3(a).

Conservative columnist George Will convincingly advances the argument that the entertainment industry as a whole should be the relevant market for determining whether a given cable system is subject to effective competition. "You don't have to watch cable television," Will says. "Open a book, go to the movies." By this standard, of course, all cable systems are subject to effective competition, and none should be regulated. "This Week With David Brinkley," *supra* note 17.

26. *News Conference with Rep. Pete Geren (D-TX) and Rep. John Bryant (D-TX)*, FED. NEWS SERVICE, October 5, 1992. This is the predominant difference between the 1992 Act and the 1984 Communications Policy Act. The 1984 Act also provided for rate regulation of cable companies not subject to "effective competition." However, it defined a market as "competitive" if at least three local broadcast stations were available. That liberal definition exempted 97 percent of cable operators from rate regulation. This is the exact opposite of the 1992 Act, which exempts only three percent of cable operators. Michael Botein, *Cable Regulation Bill: Boon to Broadcasters or Viewers?*, N.Y.L.J., Sept. 23, 1992, at 1.

27. Cable Act, *supra* note 1, at § 3(a).

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.*

32. *Id.*

33. Cable Act, *supra* note 1, at § 6. Undoubtedly, cable operators found it safer to attack this proposition because the issues surrounding it were far more complex than those involving rate regulation. As noted above, it would have been difficult to convince consumers that rate regulation in itself would be harmful. The industry undoubtedly calculated that public opinion (and thus Congressional opinion) would be more susceptible to arguments involving issues esoteric to the industry.

34. *Id.*

35. *Id.*

36. The "synopsis" of the Act states that its purpose is "to provide increased customer protection" in the cable television market. Cable Act, *supra* note 1.

37. Cable Act, *supra* note 1, at § 3(a).

38. *Id.* at § 3(a).

39. *Id.* at § 4.

40. *Id.*

41. U.S. Const. amend I; *United States v. Midwest Video Corp.*, 406 U.S. 649 (1972) (*affirming* constitutionality of FCC jurisdiction over cable television).

42. *2d Suit Filed on Cable Law*, N.Y. TIMES, Oct. 16, 1992, at D9.

43. Cable Act, *supra* note 1; Bureau of National Affairs, *House Committee Action on Cable Bill Unlikely Until June*, WASH. INSIDER, May 11, 1992.

44. To achieve the Act's anti-buy through measure, every subscriber must have an individually addressable converter box.

This is the "cable box" found beside many customers' television sets. Some systems do not currently use these devices. Andrews, *supra* note 3, at D2.

45. Cable Act, *supra* note 1, § 3(a).

46. *Id.* at § 8.

47. *Id.* at § 17.

48. *Id.*

49. *Id.*

50. Andrew Fegelman, *Cable firm drops automatic movie charge*, CHI. TRIB., June 15, 1991, § 1 at 1.

51. Cable Act, *supra* note 1, at § 3(a).