CAMBRIDGE CONSUMERS' COUNCIL
831 Massachusetts Ave. Cambridge, MA 02139
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349-6153

serving the residents of:

Cambridge
Boston

City Of Cambridge

Paul J. Schlaver
Executive Director

TO: Robert W. Healy, City Manager
FROM: Paul Schlaver
THROUGH: Benjamin Barnes
DATE: December 2, 1998

RE: Council Order #154, dated 7/27/98 RE: What Kind of Customer Relations Criteria Can Be Included as Conditions of a Cable TV Franchise Agreement

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The response memorandum from Peter Epstein sets forth the letter of the law as to what a Cable TV company must follow as to state and federal regulations currently in existence. Mr. Epstein sets forth the fact that some requirements beyond the federal or state standards can be negotiated into the franchise agreement but believes that, practically speaking, the scope of unique provisions that can be included are very limited.

The suggestions that I can add to the memorandum and attachments submitted by Mr. Epstein might be consider items that would enhance consumer benefits and services for Cambridge customers and should be considered possible negotiation targeted provisions. I, too, acknowledge that when you are negotiating an agreement with a private, for-profit provider of goods and services you must remain cognizant of the fact that the cost of the revenue loss associated with providing the achieved benefits is usually passed on to the rest of the customers. Yet, with the potential of entering into an era of competition in Cable TV services in Cambridge, we might find the negotiation atmosphere more favorable than it would have been without competition. With that said, here are some consumer services/benefits we might want to strive for:

1). **Senior Citizen Discount:** The example of a needs-based senior discount (Town of Greenfield) Mr. Epstein includes goes farther than the current Cambridge discount that is limited to seniors in public housing. If we simply go for an across the board age-driven elderly discount we may be impacting "the total cost of the benefits package" significantly so have to decide our priorities in this regard.

I would certainly advocate that we **add the disabled customer to the discount package** according to needs-based criteria. A customer could easily show a SSI Award letter or a MassHealth or CommonHealth card to prove eligibility.

With any discount program the applications and approval procedure must be streamlined so that it is not onerous on the citizen to receive the benefit. With needs-based criteria, proof of eligibility for certain governmental programs should suffice so that one does not have to disclose unnecessary income information or encounter a complex application process.

2) **Bill Format:** It is not reasonable to expect a highly unique format for Cambridge customer compared to the bills other MediaOne or RCN customers receive in other communities. I believe, though that some Cambridge specific messaging can be added to the bills since some data is unique to each bill anyhow or might be unique to an entire service area. Therefore, I would advocate that the bill might be required to include the telephone number (and e-mail address) and name of the relevant city department to call with a Cable TV complaint, for example.

   A major frustration for cable customers has been the payment due date set within a very few days of receiving the bill statement. This is allowable by state regulation so we can not expect to negotiate it away. But, I believe that the cable company can be expected to periodically inform its customers that state law also allows payment to be made up to 30 days past the "due date" before a delinquency notice can be sent and then late fee can be imposed.

3) **Consumer Rights Information**: In addition to the requirement that customers must be informed of their rights established by state and federal regulations at the start of their contract with a cable company, more frequent disclosure through more than "bill stuffer small print" can be mandated. Both the City channels and the company channels can be expected to post this information thoroughly and frequently. A pamphlet or fact sheet as well as web page information could be developed by the City's Cable Office and the Consumers' Council with this information and MediaOne/RCN could be expected to underwrite the cost. A complaint tracking system could also established that is coordinated with the various entry points among relevant city departments.

4) **Local Customer Service:** Obviously a physical presence for each cable company within the city limits must be maintained for Cambridge customers choosing to pay bills, pickup or drop off equipment or discuss concerns. A free pickup service for cable boxes, remote controls units, etc. should be made available for senior citizens and members of the disabled community for whom it would be a hardship to have to visit the local cable company office.

5) **Public Performance Review Sessions:** Cable company officials should be required to host periodic public review session in partnership with the appropriate city departments and City Council sub-committee that will encourage public discussion about Cable TV services. The format should be more in the style of the event held at the Senior Center last year under the sponsorship of the Consumer Advisory Commission. These sessions do not necessarily replace more formal annual review session hosted by the City Manager.

6) **Closed Captioning Services:** The use of this technology must be encourage via the franchise agreement so that the City channels and the company channels expand this needed service as much as possible for the benefit of the many citizens assisted by the addition of closed captioning.

This July 27th Council order also reference a specific Cambridge cable customer with a complaint about her cable bill. To my knowledge this matter has been resolved.

PETER J. EPSTEIN
COUNSELLOR AT LAW
101 Arch Street, Suite 900
Boston, Massachusetts 02110-1112
TEL. (617) 951-9909
FAX. (617) 951-2819

TO: Nancy E. Glowa, Esquire
FROM: Peter J. Epstein PJE
DATE: October 14, 1998
RE: City Council Order #154

I am responding to your facsimile enclosing City Council Order #154 (the "Order"). You had requested that I respond to the issues in the Order.

The first part of the Order seeks to have a representative of MediaOne contact Mrs. Blair to resolve billing problems and ensure that she is only subscribing to the lowest service tier in order to receive City Council programming. I assume that someone has already contacted MediaOne to resolve Mrs. Blair's billing problems. I have attached Section 6.2 ("Lowest Cost Service Tier") from the Cambridge Final License. You will note that Section 6.2(a) requires that MediaOne provide a "lowest service tier" that will include, among other things, all of the access channels. Section 6.2(C) references Sechedule 5 of the Final License, a copy of which I have also enclosed. You will note that the "lowest cost tier" includes the Government Access Channel which, I assume, carries City Council programming. In addition, 207 CMR 10.02(3) requires operators to "fully disclose in writing all of its programming services and rates, upon request from a subscriber" (see enclosed).

The second part of the Order consists of a Council request regarding the kinds of "customer relations criteria" that can be included in a cable television license, with specific reference to (i) "when and in what format bills are sent", and (ii) whether the City can require that cable companies operating in the City provide a discount to senior citizens.

In general, municipalities have the right to negotiate specific license provisions in connection with customer service matters that affect the community. While the City and the operator can agree on such provisions, the operator has no legal obligation to agree to such provisions. What the operator does have to comply with, at a minimum, is the following:

First, the operator must comply with the FCC's Customer Service Obligations, as codified. Please note that Mr. Healy, as Issuing Authority, did write to MediaOne, on December 16, 1997, to start enforcing those FCC standards. I have enclosed a copy of Mr. Healy's letter.

Second, the Massachusetts Cable Television Division has regulations, at 207 CMR 10.00 ("Billing and Termination of Service"), which deal with billing and other cable-related service issues, a copy of which I have enclosed.

Third, regarding the format of subscriber bills, this matter is largely covered by the Division's regulations at 207 CMR 10.00. As a practical matter, it is difficult, if impossible, to negotiate provisions different from those in the regulations.

Fourth, the City can negotiate a senior discount in the City. While cable companies are not legally obligated to provide such a discount, many operators, including MediaOne, are willing to do so. The specific parameters of such a discount vary from community to community, based upon negotiations. By way of example, I've enclosed a senior discount provision from the Greenfield Renewal License, dated July 28, 1998, and granted to MediaOne. While this discount is "needs-based", other licenses provide a discount for *all* senior citizens above a certain age (ie-62 or 65 years of age).

Please let me know if you would like further information on this matter.

camb#154

SECTION 6. SERVICE AND PROGRAMMING

6.1 Initial Service and Programming: During the period set forth in Section 7.1, the Licensee agrees subject to reasonable availability, to make no changes in the programming channels and services and the Tiers of service set forth in schedules 5, 6, 7, 9 and 10 hereof.

6.2 Lowest Cost Service Tier:

a. Licensee shall provide a Lowest Cost Tier available to Subscribers which shall include at least: (i) all access channels, as required by Sections 11, 18 and 19 hereof; (ii) all local origination channels, as required by Section 17 hereof; (iii) one leased access channel administered by the Licensee.

b. Licensee shall provide in addition to Public Access, Leased Access and Local Origination channels: (i) at least one (1) channel carrying national and international news including public affairs; (ii) at least one (1) channel carrying live coverage of national congressional activities; (iii) at least one (1) channel carrying minority programming, including programming specifically for people of color; (iv) at least one (1) channel carrying foreign language programming, including Spanish language programming; and (v) at least one (1) channel carrying educational programming.

c. See Schedule 5 attached hereto and made a part hereof for purposes of defining the quality of the broad categories of video programming contained in Section 6.2.

6.3 Basic Service Tier:

a. Licensee shall provide a Basic Service Tier which shall include in addition to all of the services and channels provided on the Lowest Cost Service Tier at least: (i) all broadcast television signals in the Cambridge, Massachusetts metropolitan area which are required to be carried by a cable television system serving the City as defined in schedule 6; (ii) at least two (2) superstations; and (iii) at least one (1) distant signal specialty station.

SCHEDULE 5

Lowest Cost Tier

Access: Primary, Secondary, Higher, Education
Access: Government
Access: High School, Educational Radio, School Bulletin Board
Access: Public (2)
Access: Reserved (4)
Access: Reserved, Leased (2)
Black Entertainment Television
CNN Headline News
C-Span
The Learning Channel
Spanish International Network
Neighborhood Network - Local Origination
The Cultural Channel - Local Origination

<u>Available Pay Services</u>

Dow Jones News Retrieval
Keyfax

207 CMR 10.00. BILLING AND TERMINATION OF SERVICE

Section

10.01: Billing Practices Notice

(1) Every cable television operator shall give written notice of its billing practices to potential subscribers before a subscription agreement is reached. Such notice shall include practices relating to the frequency and timing of bills, payment requirements necessary to avoid account delinquency, billing dispute resolution procedures and late payment penalties.

(2) A copy of the cable television operator's billing practices notice, work order and sample subscriber bill shall be filed by March 15th of each year with the Commission, the issuing authority, and the company's local office, where they shall be available for public inspection. If an operator amends its billing practices notice, work order or subscriber bill after submitting the annual filing, it shall file copies of the amendments with the Commission, the issuing authority and the company's local office.

(3) At least 30 days prior to implementing a change of one of its billing practices, the cable television operator shall notify in writing the Commission, the issuing authority and all affected subscribers of the change and include a description of the changed practice.

(4) Statements about billing practices in work orders, marketing, materials and other documents shall be consistent with the billing practices notice.

10.02: Services, Rates and Charges Notice

(1) The cable television operator shall give notice of its services, rates and charges to potential subscribers before a subscription agreement is reached.

(2) At least 30 days prior to implementing an increase in one of its rates or charges or a substantial change in the number or type of programming services, the operator shall notify, in writing, the Commission, the issuing authority and all affected subscribers of the change and include a description of the increased rate or charge. The notice shall list the old and new rate or charge and, if applicable, the old and new programming services provided.

(3) Every cable television operator shall fully disclose in writing all of its programming services and rates, upon request from a subscriber.

(4) Every cable television operator shall fully disclose in writing all of its charges for installation, disconnection, downgrades and upgrades, reconnection, additional outlets, and rental, purchase and/or replacement due to damage or theft of equipment or devices used in relation to cable services, upon request from a subscriber.

(5) Every cable television operator shall provide written notice of the charge, if any, for service visits and under what circumstances such charge will be imposed, upon request from a subscriber.

(6) A copy of the cable operator's programming services, rates and charges shall be filed by March 15th of each year with the Commission, the issuing authority and the company's local office where it shall be made available for public inspection. If an operator amends its notice after the annual filing, it shall file a copy of the amendment with the Commission, the issuing authority and the company's local office.

10.02: continued

(7) A cable operator shall not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. This provision, however, shall not preclude the addition or deletion of a specific program from a service offering, the addition or deletion of specific channels from an existing tier of service, or the restructuring or division of existing tiers of service that do not result in a fundamental change in the nature of an existing service or tier of service.

10.03: Form of Bill

(1) The bill shall contain the following information in clear, concise and understandable language and format:

(a) the name, local address and telephone number of the cable television operator. The telephone number shall be displayed in a conspicuous location on the bill and shall be accompanied by a statement that the subscriber may call this number with any questions or complaints about the bill and or subscribers rights under 207 CMR 10.07 in the event of a billing dispute;

(b) the period of time over which each chargeable service is billed including prorated periods as a result of establishment and termination of service;

(c) the dates on which individually chargeable services were rendered or any applicable credits were applied;

(d) separate itemization of each rate or charge levied or credit applied, including but not be limited to, basic, premium service and equipment charges, as well as any unit, pay per-view or per item charges;

(e) the amount of the bill for the current billing period, separate from any prior balance due;

(f) the date on which payment is due from the subscriber,

(2) Cable operators may identify as a separate line item of each regular subscriber bill the following:

(a) The amount of the total bill assessed as a franchise fee and the identity of the franchising authority to whom the fee is paid;

(b) The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels;

(c) The amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. In order for a governmental fee or assessment to be separately identified under 207 CMR 10.03, it must be directly imposed by a governmental body on a transaction between a subscriber and an operator.

(3) All itemized costs shall be direct and verifiable. Each cable operator shall maintain a document in its public file which shall be available upon request, that provides the accounting justification for all itemized costs appearing on the bill.

10.04: Advance Billing and Issuance of Bill

(1) In the absence of a license provision further limiting the period of advance billing, a cable operator may, under uniform nondiscriminatory terms and conditions, require payment not more than two months prior to the last day of a service period.

(2) A cable subscriber may voluntarily offer and a cable operator may accept advance payments for periods greater than two months.

(3) Upon request, a cable television operator shall provide subscribers with a written statement of account for each billing period and a final bill at the time of disconnection.

10.05: Billing Due Dates, Delinquency, Late Charges and Termination of Service

(1) Subscriber payment is due on the due date marked on the bill, which shall be a date certain and in no case a statement that the bill is due upon receipt. The due date shall not be less than five business days following the mailing date of the bill.

10.05: continued

(2) A subscriber account shall not be considered delinquent unless payment has not been received by the company at least 30 days after the bill due date.

(3) The following provisions shall apply to the imposition of late charges on subscribers:

(a) A cable television operator shall not impose a late charge on a subscriber unless a subscriber is delinquent, the operator has given the subscriber a written late charge notice in a clear and conspicuous manner, and the subscriber has been given at least eight business days from the date of delinquency to pay the balance due.

(b) A charge of not more than 5% of the balance due may be imposed as a one-time late charge.

(c) No late charge may be assessed on the amount of a bill in dispute.

(4) A cable television operator shall not terminate a subscriber's service unless the subscriber is delinquent, the cable operator has given the subscriber a separate written notice of termination in a clear and conspicuous manner, and the subscriber has been given at least eight business days from the mailing of the notice of termination to pay the balance due. A notice of termination shall not be mailed to subscribers until after the date of delinquency.

(5) A cable television operator shall not assess a late charge on a bill or discontinue a subscriber's cable television service solely because of the nonpayment of the disputed portion of a bill during the period established by 207 CMR 10.07 for registration of a complaint with the operator or during the process of a dispute resolution mechanism recognized under 207 CMR 10.07.

(6) Any charge for returned checks shall be reasonably related to the costs incurred by the cable company in processing such checks.

10.06: Charges for Disconnection or Downgrading of Service

(1) A cable television operator may impose a charge reasonably related to the cost incurred for a downgrade of service, except that no such charge may be imposed when:

(a) A subscriber requests total disconnection from cable service; or

(b) A subscriber requests the downgrade within the 30 day period following the notice of a rate increase or a substantial change in the number or type of programming services relative to the service(s) in question.

(2) If a subscriber requests disconnection from cable television service prior to the effective date of an increase in rates, the subscriber shall not be charged the increased rate if the cable television operator fails to disconnect service prior to the effective date. Any subscriber who has paid in advance for the next billing period and who requests disconnection from service shall receive a prorated refund of any amounts paid in advance.

10.07: Billing Disputes

(1) Every cable television operator shall establish procedures for prompt investigation of any billing dispute registered by a subscriber. The procedure shall provide at least 30 days from the due date of the bill for the subscriber to register a complaint. The cable television operator shall notify the subscriber of the result of its investigation and give an explanation for its decision within 30 working days of receipt of the complaint.

(2) The subscriber shall forfeit any rights under 207 CMR 10.07 if he or she fails to pay the undisputed balance within 30 days.

(3) Any subscriber in disagreement with the results of the cable television operator's investigation shall promptly inquire about and take advantage of any complaint resolution mechanism, formal or informal, available under the license or through the issuing authority before the Commission may accept a petition filed under 207 CMR 10.07(4).

10.07 continued

(4) The subscriber or the cable television operator may petition the Commission to resolve disputed matters within 30 days of any final action. Final action under 207 CMR 10.07(3) shall be deemed to have occurred 30 days after the filing of a complaint.

(5) Upon receipt of a petition, the Commission may proceed to resolve the dispute if all parties agree to submit the dispute to the Commission and be bound by the Commission's decision and the Commission obtains a statement signed by the parties indicating that agreement. In resolving the dispute, the Commission may receive either written or oral statements from the parties, and may conduct its own investigation. The Commission shall then issue a decision based on the record and the parties shall receive written notification of the decision and a statement of reasons therefor.

10.08: Security Deposits

(1) A cable operator shall not require from any cable subscriber a security deposit for converters or other equipment in excess of the cost of the equipment.

(2) The cable operator shall pay interest to the cable subscriber at a rate of 7% per year for any deposit held for six months or more, and such interest shall accrue from the date the deposit is made by the cable subscriber. Interest shall be paid annually by the cable operator to the cable subscriber, either as a direct payment or as a credit to the cable subscriber's account.

(3) Within 30 days after the return of the converter or other equipment, the cable operator shall return the security deposit plus any accrued interest to the cable subscriber, either as a direct payment or as a credit to the cable subscriber's account.

REGULATORY AUTHORITY

207 CMR 10.00: 47 U.S.C. § 552, M.G.L. c. 166A, §§ 2A, 3, 5(1), 10, 16 and 17.

CITY OF CAMBRIDGE
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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

December 16, 1997

By Certified Mail

Susan M. Eid, Esquire
Vice President
MediaOne
Riverbend Business Park
6 Campanelli Drive
Andover, Massachusetts 01810-1095

RE: <u>FCC Customer Service Obligations</u>

Dear Ms. Eid:

Pursuant to 47 CFR §76.309 (a), as statutory Issuing Authority, I am hereby giving MediaOne ninety (90) days written notice of my intention to enforce the Customer Service Obligations contained in Section 76.309 (c). I will begin such enforcement ninety (90) days after MediaOne's receipt of this letter. This letter constitutes the required notice pursuant to 47 CFR §76.309 (a).

The City of Cambridge intends to enforce all of the FCC Customer Service Obligations and reserves all of its rights pursuant to 47 CFR §76.309.

Very truly yours,

Robert W. Healy
City Manager

Certified Mail #Z 787 136 366
Return Receipt Requested

cc: City Council
City Solicitor's Office
Peter J. Epstein, Esquire

Section 9.5---**SENIOR CITIZEN DISCOUNT**

(a) Within six (6) months of the Effective Date of this Renewal License, the Licensee shall offer a ten percent (10%) discount on the basic broadcast level of service to all heads of households, age sixty-five (65) or older, (i) who are Medicaid eligible; and/or (ii) who meet the criteria for an elderly exemption from property taxes; and/or (iii) who are senior citizens living in public housing. In order to qualify for such discount, affected senior citizens must present evidence of such eligibility to the Licensee.

(b) In the event that the Licensee adopts a State-wide senior citizen discount program, the Licensee shall implement such a discount program in Greenfield.

11.

CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

December 14, 1998

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 4, regarding a report on what customer relation's criteria can be included as conditions of any cable franchise contract, received from Executive Director of the Consumers' Council Paul Schlaver and the Cable Television Counsel Peter Epstein.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
Attachment

Consent Agenda #11 8075

Relative to AW #4, regarding
a report on what customer relation's
criteria can be included as
conditions of any cable franchise
contract.

In City Council December 14, 1998

PLACED ON FILE