

THE FIRST MAJOR MARKET CABLE TELEVISION FAILURE:  
A CASE STUDY OF THE 1967 CATV EFFORTS  
IN LAKEWOOD, OHIO

A Thesis

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## PREFACE

This thesis is a descriptive analysis of the 1967-1968 venture in Lakewood, Ohio by Cleveland Area TV, Incorporated. The purpose of this paper is to demonstrate the reasons for the cable television system's failure and to comment on important issues raised by the Lakewood efforts.

The first section of the thesis is an overview of the Lakewood system: its significance, its ownership and control, and its unique features and problems. The second section presents a chronology of the events which led to both the birth and the death of Lakewood CATV. The final section explains in detail why the Lakewood venture did not meet with success.

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## I. INTRODUCTION

### Significance of the Case Study

In February 1967, Cleveland Area TV, Incorporated (CATV, Incorporated) began operation of a cable television system in Lakewood, Ohio, a suburb of Cleveland. Just eighteen months later, the company quietly vanished into the night, leaving nearly the entire city of Lakewood wired for a non-existent service. The significance of this misadventure in Lakewood lies in the fact that it was the very first major market failure for cable television, and probably the last.

Cable television systems are very rarely unsuccessful. In most instances, cable operators have a de facto monopoly on the cities they serve. One writer on cable television cites research which indicates the possibility of a system's capability of generating up to 35 per cent profit margins for a relatively moderate investment:

[Given a] hypothetical case of a system constructed in a community of 30,000 to 40,000 people, of whom about 10,000 might subscribe. . . .

When such a system has signed up 5,500 subscribers--55 per cent of the potential total in the community, which many systems meet or exceed--it will be producing . . . an annual profit [enough

to] more than repay its total cost in less than four years.<sup>1</sup>

Based on the track record of other cable operations, Lakewood CATV could hardly have helped but be successful, especially since it was co-owned by a corporation with wide experience in cable television. However, there were other factors involved in the Lakewood case besides financial expertise.

Another significant feature of the Lakewood cable television venture was its pioneer nature; the system represented one of the very first attempts (and perhaps the first major attempt)<sup>2</sup> at local program origination. Such "cablecasting," as it is called, was permitted by the Lakewood City Council pending that group's approval of programming and advertising proposals. (Two months after receiving its franchise, CATV, Incorporated was informed by Council that advertising would not be allowed over the cable television service.)

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<sup>1</sup>Ralph Lee Smith, The Wired Nation (New York: Harper and Row Publishers, 1972), pp. 23-24. For the original report see "An Industry Report on Community Antenna Television" (Philadelphia: Drexel Harriman Ripley, 1968).

<sup>2</sup>It would be difficult to identify for sure one major cable system which first originated local programming. Broadcasters still quibble over which outlet was the first commercial radio station. However, none of the seven television markets larger than Cleveland had a "cablecaster" before the Lakewood case.

The Lakewood case also serves as an example of the impact of the FCC rules which discouraged the importation of a "distant signal" into a top-100 television market. (A distant signal is one whose Grade B contour does not reach the market in question.) The story of the cable system in Lakewood clearly demonstrates that the FCC had, by passing such rules, effectively ended the feasibility of constructing new cable television systems in most top-100 markets, regardless of how diligently such systems might try to attract subscribers by offering other cable services in lieu of distant signals.

In order to fully understand the Lakewood CATV system, one must understand the significance of the era in which it emerged and vanished. Cable television has been around ever since the late 1940's, when communities separated from television signals by mountains and long distances produced enterprising individuals who erected high antennas on suitable locations, strung cable throughout the towns, and sold a television service to those who often could get such service no other way. Starting in the early and mid-1960's, however, the cable industry experienced a tremendous growth rate. By 1965, prospective cable operators were scrambling madly to get franchises in potentially lucrative cities. Two groups (there were others, too) which stood to lose out if cable television became fully entrenched on the American scene were the over-the-air broadcasters, whose

markets were to be fragmented by the arrival of imported signals, and the newspaper conglomerates, who feared any additional competition. One way for these two groups to protect themselves was to buy into the oncoming "gold rush" of cable television, which the smart ones did. The Lakewood case, however, serves as the one and only example where this entrepreneurial diversification by large broadcast corporations and newspaper chains met with disastrous failure.

The Ownership and Control of  
Lakewood CATV

The Lakewood system was (and still is) controlled 100 per cent by Cleveland Area TV, Incorporated (CATV, Incorporated), which is in turn owned 55 per cent by the Forest City Publishing Company, publishers of the Cleveland Plain Dealer since 1842, and 45 per cent by the Cox Cablevision Corporation of Atlanta, Georgia.<sup>3</sup> CATV, Incorporated was

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<sup>3</sup>CATV, Incorporated also had franchises at the time for Shaker Heights, Strongsville, Beachwood, and Rocky River (all in the Cleveland area). (TV Factbook 1968-69, pp. 560a, 467a.) The latter two communities were originally scheduled to begin operations on May 10, 1968, however both were abandoned by financially troubled CATV, Incorporated and subsequently swallowed up by Telerama, the only Cleveland area cable operator presently protected by the FCC "grandfathering" rule, which permits cable companies operating prior to March 31, 1972 to ignore FCC cable rulings, with regard to existing operations within political divisions served prior to the cut-off date, until March 31, 1977 or until the current franchise expires, whichever occurs first. (Edward J. Walsh, Jr., "The Cable is Coming! The Cable is Coming!" Cleveland, January 1973, p. 67.)

formed "for the purpose of providing Community Antenna Television service to the residents of Lakewood and other communities in the Greater Cleveland area."<sup>4</sup> Although this was the first cable television venture by the owners of The Plain Dealer, Cox Cablevision held, at the time, full or part ownership in sixteen different cable television systems.<sup>5</sup>

The actual management of CATV, Incorporated, in regard to basic policy decisions, belonged to Cox Cablevision, specifically to its vice-president in charge of operations, Marcus Bartlett. (Day-to-day decisions on Lakewood CATV

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<sup>4</sup>Cleveland Area Television, Incorporated, "Proposed Community Antenna Television Service," proposal submitted to the city of Lakewood, Ohio on February 19, 1965, p. 3.

<sup>5</sup>In 1967, Cox had 100 per cent of cable systems in Astoria and Seaside, Oregon; Bakersfield (California) Cable TV Inc.; Pacific Video Cable Co., El Cajon, California; Mission Cable TV Inc.; system in San Diego, franchises in Imperial Beach and National City, California; The Dalles (Oregon)TV; Pennwire TV., Lewistown, Pennsylvania; Susquehanna Valley TV, Lockhaven and Tyrone, Pennsylvania; Harbor TV, Aberdeen, Washington; Penninsula TV Cable, Long Beach, Washington; 100 per cent franchise in Porterville, California; 49 per cent of Columbus Communications Corp.; system in Columbus, Indiana, franchises in North Vernon and Vernon, Indiana; 45 per cent of Buckeye Cablevision Inc.: system in Toledo, Ohio, franchises in Maumee, Perrysburg and Sylvania, Ohio; 20 per cent of Cox-Cosmos Corp.: system in Charlotte, North Carolina; 80 per cent of Georgia Cablevision Corp.: franchises in Atlanta and Doraville, Georgia; and 100 per cent of Video Service Co. (Television Factbook, 1968-69 Edition No. 38 [Washington, D.C.: Television Digest, Inc., 1968], p. 562a.) At the end of 1967, the number of subscribers on these systems totaled 84,407. ("Cox Selling Slice of Subsid to Expand in Cable Field," Variety, August 14, 1968, p. 38.)



were made by the local manager.) Mr. Bartlett, who has since been replaced by William Pitney, ex-manager of Lakewood CATV, reported directly to J. Leonard Reinsch, the president of Cox Broadcasting. One should not get the idea that The Plain Dealer, the majority owner of CATV, Incorporated, was left entirely out of the planning of Lakewood CATV; yet, it would not be unusual for the newspaper owners to delegate a larger share of the policy-making powers to the persons most experienced in managing successful cable television operations. In all probability (The Plain Dealer declined to comment on the matter), the Cleveland newspaper formed CATV, Incorporated, with the help of Cox Cablevision, primarily as a way of keeping Telerama, a large Cleveland cable operator co-owned by the publisher of The Press (The Plain Dealer's chief competitor), from owning the most cable franchises and systems in the Cleveland area. In addition, it was just "good business" for newspapers in those days to invest in the very profitable cable television business.<sup>6</sup>

Ownership of the Lakewood system was further complicated by what is known as a leaseback arrangement. This means that the cable itself and appurtenances were owned by Ohio Bell, the telephone company in Lakewood, and leased to the cable operators. The involvement of a local

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<sup>6</sup>See an article entitled "Move into CATV: advice to dailies" in Advertising Age, November 7, 1965, p. 50.

telephone company in cable television was not unusual; many independent phone companies have gone a step further than the leaseback arrangement and have owned and operated entire cable television systems.

However, the Bell System companies were bound by a 1956 consent decree<sup>7</sup> into which they had entered with the Justice Department, an agreement which precluded the Bell System companies from engaging in any communication service for which tariffs had not been filed with the regulatory commission having jurisdiction. Unfortunately for these Bell companies, tariffs could not be filed for cable television systems since such community antenna services are not common carriers. At the time of the Lakewood venture, therefore, Ohio Bell had no choice (if it wanted to profit somehow in the "cable TV goldrush") but to engage in the activity of building cable systems and letting other parties run them on long-term lease, provided that Bell certificates of public convenience and necessity with the FCC, as demanded by a 1966 ruling.<sup>8</sup> (Recent rulings have, in effect, prohibited any new leaseback or pole-attachment arrangements between a phone company and its affiliate, with a grace period for existing systems until May 1,

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<sup>7</sup>United States v. Western Electric Co., Inc. and American Telephone and Telegraph Co., Civil Action No. 17-49, (D.N.J. 1956).

<sup>8</sup>5 FCC2d 229 (October 12, 1966); 5 FCC2d 357 (October 21, 1966).

1974.<sup>9,10</sup>). To be sure, Cleveland Area TV, Incorporated would have preferred to own everything, and leave the phone company out. But, as Ralph Lee Smith explains in his book The Wired Nation, two things stood in the way of totally independent cable systems.<sup>11</sup> First, the cable system had no real alternative but to use the phone company's poles or conduits. Unless the telephone company was completely satisfied with the cable arrangements, and if there were other applicants with franchises, it could have refused to grant pole rights and sought out those other cable entrepreneurs.<sup>12</sup> Second, prospective cable operators did not have the easement rights onto private property, such as large apartment buildings, trailer courts and nursing homes, that the phone companies had. In order to get these particular easement rights, many cable companies chose the leaseback arrangement. In the Lakewood case, it is safe to assume that either the agreement with Ohio Bell was fair or that

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<sup>9</sup>21 FCC2d 307 (1970); 22 FCC 2d 746 (1970).

<sup>10</sup>The one exception is that the FCC would provide a waiver of the Rules upon a showing that CATV service could not exist in the community except through a CATV system related to or affiliated with the local telephone carrier. (E. Stratford Smith, "The emergence of CATV: a look at the evolution of a revolution," Proceedings of the IEEE, July 1970, p. 567.)

<sup>11</sup>R. L. Smith, op. cit., p. 67.

<sup>12</sup>See also an article entitled "NCTA charges AT&T stalls use of poles to force CATVers to join 'lease-back' program" in the New York Times, October 15, 1966, p. 60.

Cleveland Area TV, Incorporated was unwilling to push the issue since Telerama Inc., another Cleveland cable corporation, also held a franchise on the lucrative Lakewood community. In the third major section of this paper, further problems related to the leaseback idea, in regard to the Lakewood system, will be analyzed.

Legal Complications from the CATV  
Regulators, the FCC

Unlike Telerama, CATV, Incorporated was not "grandfathered" and, in accordance with the FCC rules issued on March 8, 1966, could not import signals from outside the Cleveland market area except upon a showing, accepted by the FCC, that such importation of "distant signals" into a top-100 television market (Cleveland was eighth in the country at the time)<sup>13</sup> "would be consistent with the public interest, and specifically the establishment and healthy maintenance of television broadcast service in the area."<sup>14</sup> However, these "evidentiary hearings" proved a tremendous stumbling block to new cable ventures such as Lakewood's, as Ralph Lee Smith points out:

Existing or projected stations in the area do not need to offer any evidence that importation of distant signals will harm them; they need only object. The cable system must then prove that such importation will do no harm to established local interests. Such proof obviously is hard to get.

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<sup>13</sup>Television Factbook, 1968-69, p. 40a.

<sup>14</sup>Docket 15971: Section 74.1107 of 2 FCC2d 725; 31 Fed. Reg. 4570; or 6 RR2d 1717.

The practical effect has been to prevent most cable systems in the nation's top one hundred market areas from importing distant signals. This, in turn, deprives cable TV of its principal selling point, and has substantially curbed the entry of the cable into most of the nation's urban areas. The one hundred top TV markets comprise about 90 percent of the nation's population.<sup>15</sup>

When the organizers of CATV, Incorporated were planning the system in Lakewood, however, the prospect of inhibiting regulations was not clearly known. It was not until the rules were adopted that CATV, Incorporated realized that the Lakewood venture would need a different, strong selling point, other than distant signal importation. No substantial number of people would be willing, of course, to pay five dollars per month to receive the same TV signals available anywhere in Lakewood with an ordinary set of "rabbit ears," even if such signals are augmented by an AP news wire or a weather channel. CATV, Incorporated, while waiting for the FCC to rule favorably for broadband television, decided to attract subscribers by offering programming of local interest. The decision to use Lakewood, and not some other suburb, was the result of careful consideration.

#### Why CATV, Incorporated Chose Lakewood

In a Rand Corporation report sponsored by the Ford Foundation, N. E. Feldman gives four main reasons why Lakewood was selected for the experiment in cablecasting.<sup>16</sup>

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<sup>15</sup>R. L. Smith, op. cit., pp. 49-50.

<sup>16</sup>N. E. Feldman, Cable Television: Opportunities and Problems in Local Program Origination, 570 FF, September 1970 (Santa Monica, Calif.: Rand Corporation, 1970), p. 14.

First, the Lakewood venture would combine low capital investment with high community interest. Since Lakewood had a city government, there existed both a political identity and a vigorous local interest in community affairs. Secondly, Lakewood had two local weekly newspapers (The Lakewood Ledger and The Lakewood Sun-Post) which could figure in the promotion of the system. (More is to be said at a later point about the irony of these two selection rationales.) Third, the median effective disposable income per family at the time was \$10,583--a relatively high median value--and the low-income group was small. The system's final reason for selecting Lakewood, according to Feldman, was the fact that Lakewood had one of the most stable populations to be found in any large U.S. city. Since 1925 Lakewood's population has been about 70,000.<sup>17</sup> A fifth factor, which Feldman does not cite, concerns the population density of Lakewood. According to Robert Schmitt, chief engineer of Lakewood CATV's local origination channel 6, during its operation, the original planning of the system took note of the fact that Lakewood has over 12,000 people per square mile, one of the highest population densities in Ohio.<sup>18</sup> Closely allied with this statistic is the fact that Lakewood was a proliferation of duplex housing, thus compacting the population per housing unit. With

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<sup>17</sup>Ohio Almanac 1973 (Lorain, Ohio: The Lorain Journal Company, 1972), p. 241.

<sup>18</sup>Robert Schmitt, personal interview in Lakewood, Ohio, January 9, 1973.

more homes and people per unit of distance, the planners of Lakewood cable television system realized that the cost-per-subscriber for laying cable, which cost at least \$4000 per mile,<sup>19</sup> would be lower in a city such as Lakewood, where 90 miles of cable were strung by Ohio Bell.<sup>20</sup>

Finding that Lakewood was an excellent location for a cable television service was not the final step in building the system. Back before the company even gave a thought about the FCC it had to do one thing before implementing its plans: It had to convince the Lakewood City Council of its plans. One writer describes cable as a game with its own rules:

. . . Any number can play . . . But the fact is, whichever company gets to a suburb first-with-the-most has a good hammerlock on a community, because the majority of suburbs don't have housing populations large enough to support more than one cable operator. Object of the game is to get the franchise.<sup>21</sup>

The attempt to get the franchise marked the "birth" of Lakewood CATV. The next major section of this paper starts with this birth and traces the history of the Lakewood cable television system to its "death."

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<sup>19</sup>Verne M. Ray, ed., CATV Operator's Handbook (Thurmont, Maryland: TAB Books, 1967), p. 7.

<sup>20</sup>"Cablemen to study local origination," Broadcasting, March 20, 1967, p. 73.

<sup>21</sup>Edward J. Walsh, Jr., op. cit., p. 67. See supra, note 3.

## II. THE LAKEWOOD CABLE SYSTEM

### The Original Plans

On February 19, 1965, Cleveland Area TV, Incorporated presented its proposal for community antenna television service to the Lakewood City Council. Accompanying the proposal were two letters to Lakewood Mayor Robert M. Lawther and members of the city council. One was from Thomas Vail, publisher and editor of The Plain Dealer and chairman of the board, of CATV, Incorporated, and the other was from J. Leonard Reinsch, president of Cox Broadcasting Corporation, Cox Cablevision Corporation, and CATV, Incorporated. Both letters pointed out the two parent company's resources and communications experience, and, in general, argued the benefits of cross-media ownership.

In addition, the proposal described the special qualifications of the applicant, CATV, Incorporated. In speaking of the parent companies, the proposal stated:

As partners in CATV [community antenna television], these two companies can perform an outstanding service for the people of this city. We are pleased to see that the number of companies getting into the field for quick profit is rapidly declining. We believe that operating a cable system in the public interest, with financial and community commitments that extend over a great number of years,



is the vital ingredient which is determining the true pioneers of the new and vital industry.<sup>22</sup>

The next portion of the proposal provided an outline of the services to be provided in Lakewood.

However, two situational factors must be realized in any analysis of the service proposals by CATV, Incorporated. First, one other Cleveland cable company, Telerama, also had its eyes on Lakewood in the early part of 1965, though not to the same extent. Telerama, prior to its purchase by Viacom International, Incorporated in January, 1972, was owned 51 per cent by eleven Cleveland area businessmen and 49 per cent by Scripps-Howard Broadcasting Company (whose owners also published The Press, Cleveland's other daily newspaper). Telerama, too, proposed to provide Lakewood with cable television, although it is not clear how local-oriented the programming was to be, since Telerama seemingly abandoned its plans in Lakewood when the FCC froze distant signal importation in the top-100 television markets. There were other cable operators interested in Lakewood, but not to the extent of CATV, Incorporated and Telerama.

Second, the proposal of cable service by CATV, Incorporated was made two months prior to the First Report and Order, in which the FCC virtually froze future microwave

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<sup>22</sup>Cleveland Area Television, Inc., op. cit., p. 6.

cable systems,<sup>23</sup> and thirteen months prior to the Second Report and Order, a ruling which effectively stopped distant signal importation for non-grandfathered systems in the top-100 television markets.<sup>24</sup> (Telerama was in the same regulatory situation as CATV, Incorporated since the former company was "grandfathered" only for its existing operations.)<sup>25</sup> Therefore, many of the items in the original proposal may illustrate what might have been had the FCC not stepped in to "protect the public interest."

The opening statement in the service proposal is one which may indicate the technical expertise of the management sector: "We propose to install an all-band community antenna television system for the Greater Cleveland area that is capable of reproducing on any attached television set 12 clear, interference-free pictures."<sup>26</sup> Nothing, of course, could be further from the truth. Since there were strong over-the-air signals on the Cleveland VHF channels at all receivers, Channels 3, 5, and 8 were not usable on the cable because of ghosts, which are caused by the

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<sup>23</sup>Dockets 14895 and 15233: 38 FCC 683 or 4 RR2d 1725.

<sup>24</sup>Supra, note 14.

<sup>25</sup>For an FCC decision relating to Telerama's inability to be grandfathered for new operations, despite the company's claim that disastrous economic injury would result without such protection, see 3 FCC 2d 585.

<sup>26</sup>Cleveland Area Television, Inc., op. cit., p. 3.

presence of two similar signals with a small time delay between them caused by the differing speeds of cable carriage and broadcast carriage.<sup>27</sup> Some attempts are presently being made to improve the technology on future television sets, yet, back in 1965, twelve clear channels were not possible over the proposed service for Lakewood. Ironically, the three channels that had to be subtracted from the original list of eleven given below were chosen from the five distant signals prohibited by the FCC rules on top-100 television markets.

#### PROPOSED SERVICES<sup>28</sup>

<u>Network Commercial</u>		
WEWS-TV	Cleveland-5	ABC
WJW-TV	Cleveland-8	CBS
KYW-TV (now WKYC)	Cleveland-3	NBC
<u>Non-Network Commercial</u>		
WPIX-TV	New York-11	Independent
WOR-TV	New York-9	Independent
WGN-TV	Chicago-9	Independent
<u>Educational</u>		
WVIZ-TV	Cleveland-25	NET
<u>Proposed</u>		
CKLW-TV	Windsor, Ontario	CBC
CFPL-TV	London, Ontario	CBC
<u>Local Origination</u>		
Weather Channel		
Background Music Channel		
(These two channels eventually		

<sup>27</sup>Feldman, op. cit., p. 14.

<sup>28</sup>Cleveland Area Television, Inc., op. cit., pp. 9-11.

merged to make way for WAKR-TV,  
Akron-49 [now Akron-23], an ABC-  
CBS affiliate)

FM Radio Channels

No specific signals mentioned

One of the big selling points given by CATV, Incorporated to the Lakewood city fathers was protection of local (Cleveland) stations:

We will protect the three Cleveland stations by not bringing in the same programs from a station in another city. This means the system we propose will not dilute the ABC audience of WEWS, or the CBS audience of WJW-TV, or the NBC audience of KYW-TV. Our proposal is unique in this very important respect among the Cleveland applicants.<sup>29</sup> (original emphasis)

Of course, one cannot be sure whether this protection of local stations was a noble gesture or a means to avoid trouble from the Cleveland television stations.

Another significant aspect of the service proposals for Lakewood cable television was the complete absence of any plans to originate public interest programming locally. Obviously, such high-minded service as was later to be touted as Channel Six was not necessary to enlist cable subscribers, during the pre-Second Report and Order era. But once the organizers of CATV, Incorporated saw its New York and Chicago services via microwave as being legally untenable, they decided, for reasons given earlier, to experiment with the Lakewood system in the hope that

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<sup>29</sup>Ibid., p. 9.

cablecasting of local features would keep their heads above water until the FCC saved the day--a hope never realized. A bit of cruel irony is pointed up in this statement in the original proposal in 1965:

Our proposal to bring New York and Chicago stations to Cleveland is necessarily made subject to microwave approval by the FCC. We have no reason to believe the Commission would discriminate against Cleveland in this respect, since the Commission has acted to increase total TV service to the people wherever possible.<sup>30</sup>

There were other features of the proposal for cable service in Lakewood. First, CATV, Incorporated stated its intent to provide a free cable connection to each public and private school in the wired area. This commitment was to have been extended to any Cuyahoga County communities served by CATV, Incorporated in the future. Also, CATV, Incorporated promised not to enter into the sale of background music for public or commercial performance, and, to this end, pledged not to supply music from the proposed system to motels, hotels, bars, clubs, or in non-residential premises. Other services offered included free monitor service at the City Manager's office and at the City Engineer's office, full-time subscriber maintenance service, and future closed circuit service.

The next section of the cable television proposal for Lakewood contained most of the eloquent and logical pleadings of the owners of CATV, Incorporated. Cable television

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<sup>30</sup>Ibid., p. 10.

was described as "a logical extension of the broadcasting industry" and "not . . . a substitute for our present television service."<sup>31</sup> CATV, Incorporated claimed superiority in this way:

The scope of our proposed operation is far beyond that of any other application on record. The transport of the big independent channels here by microwave is a major calculated business risk that requires considerable resources to justify. Our microwave costs alone will exceed one thousand dollars per day. The operating costs of the Cleveland Area complex will run into the millions of dollars annually. The number of men and women employed regularly for this project will exceed one hundred. Many more will be needed to construct the new system. We do not propose to install a CATV system and run it to protect another business, for there is no inherent conflict of interest either in the Cox or The Plain Dealer groups.

. . . Behind our company are visionary but practical men who are committed to uphold their past public service records, but who are also determined to press on to new communications horizons.

Community antenna television, in the proper hands, can develop into a vital institution for serving the people of Lakewood and nearby communities. In unimaginative and incompetent hands, it will never give the people the maximum service to which they are entitled. Cox Broadcasting and The Cleveland Plain Dealer place their corporate reputations and resources behind the construction of this new communications industry in your city.<sup>32</sup>

Of particular note in the above quotation is the mention of installing a CATV system and running it to "protect another business"; this is a definite gibe at Telerama, Incorporated and the Scripps-Howard Broadcasting Company. The fact is that not only did Scripps-Howard have connections with The

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<sup>31</sup>Ibid., pp. 13-14.

<sup>32</sup>Ibid., pp. 14-15.

Cleveland Press, but it also owned WEWS, the ABC television affiliate in Cleveland. (Although Scripps-Howard Broadcasting was officially listed as a 49 per cent owner of Telerama in 1967 and 1968, it really had a controlling 54 per cent ownership, since one of the eleven owners officially making up the other 51 per cent was Telerama vice-president Peter Hlinka, with 5 per cent,<sup>33</sup> who was also at the time Ohio sales manager for Scripps-Howard's WEWS-TV.<sup>34</sup>) CATV, Incorporated, in pointing out that there was "no inherent conflict of interest" in either parent company, was apparently anxious to discredit Telerama as a system interested in the Cleveland area in order to protect WEWS-TV, to the benefit of Scripps-Howard.<sup>35</sup>

The final part of the proposal of cable service by CATV, Incorporated was a "suggested model ordinance" of franchise agreement.<sup>36</sup> Section 1 granted Cleveland Area

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<sup>33</sup>Television Factbook, 1968-69, p. 574a.

<sup>34</sup>Ibid., p. 534b.

<sup>35</sup>The root of this rivalry between Telerama and CATV, Incorporated began when The Press, controlled by Scripps-Howard, as was WEWS-TV, "let it be known," before The Plain Dealer's entry into cable television that it, too, would attempt to start a successful cable company in the Cleveland area. In March 1965, about one month after CATV, Incorporated began, Scripps-Howard bought into Telerama, which had been formed by 6 Cleveland area men in November 1964. See "Cleveland may get CATV," Broadcasting, November 16, 1964, p. 114; "Cleveland Groups See CATV Rights," Advertising Age, February 15, 1965; and "Scripps-Howard, Telerama Team Up for Ohio CATV," Sponsor, March 8, 1965.

<sup>36</sup>Cleveland Area Television, Inc., op. cit., pp. 16-20.

TV, Incorporated the right to erect, maintain, operate and utilize a cable television service for Lakewood for a period of 25 years. Section 2 defined the word "television" and Section 3, on the matter of poles, towers, and facilities, contained the clause: "It is the stated intention of Lakewood that all holders of . . . permits . . . for the use of . . . poles . . . shall co-operate with CATV, Incorporated." Sections 4 and 5 set forth procedures for the erection of additional poles wherever deemed necessary and explains limitations on the system's use of equipment on and over streets, alleys, bridges, or other public property. Section 5 set the condition that CATV, Incorporated indemnify Lakewood for losses or any damages, and sets the amounts of insurance to be carried by CATV, Incorporated. Section 7 ordered CATV, Incorporated to furnish Lakewood with a \$10,000 bond, guaranteeing faithful performance of obligations under the terms of the franchise, conditioned upon CATV, Incorporated receiving necessary licenses or grants from State and Federal governments. Section 8 stipulated that no interference to direct off-the-air television signals be permitted and Section 9 set the rates for service at a maximum of \$19.95 for installation and at a maximum of \$5.75 per month charge. Section 10 specified that CATV, Incorporated pay Lakewood 3 per cent of the gross receipts of charges paid by subscribers under the terms of Section 9. Section 11



listed procedures for relocation or removal of cable facilities and absolved the city of any cost or loss. Section 12 gave the city the right to revoke the franchise upon failure of CATV, Incorporated to comply with the franchises provisions and Section 13 declared the rights and privileges of the franchise non-transferable under any circumstances of bankruptcy or trusteeship, and prevented CATV, Incorporated from selling or otherwise alienating the franchise without the prior approval of Council, under its terms. Section 14 set the commencement date for installation of the system at three years after the effective date of the franchise ordinance. Except in cases beyond the control of CATV, Incorporated, failure to meet the deadline was to constitute grounds for termination of franchise rights. Sections 15 and 16 granted the franchise subject to the terms of Lakewood's Charter and Ordinances and Section 17 ordered CATV, Incorporated to file acceptance of the ordinance in 30 days.

#### Local Agreement

Of the various companies interested in obtaining a franchise in Lakewood, only Cleveland Area TV, Incorporated and Telerama, Incorporated were finally chosen at a meeting of the Lakewood City Council held July 19, 1965. Council minutes for the meeting did not record the actual discussion for some reason, but the decision to let

Telerama share the chance to bring cable to Lakewood is alone significant in that it was made in spite of the subtle rhetoric against Telerama in CATV, Incorporated's cable television proposal.

It was not until February 7, 1966 that a ordinance was actually adopted by the Lakewood City Council for CATV, Incorporated. The complete text of this ordinance appears in the Appendix. It should be noted that this adoption of an ordinance to grant a franchise came a whole month before the release of the Second Report and Order but only one week before the "grandfathering" deadline. The ordinance as adopted and amended was extremely similar to the "suggested model ordinance" described earlier. The differences are, however, worth explaining.

First, the ordinance adopted on February 7, 1966 extended for a period of twenty years, instead of twenty-five years as in the model ordinance. Second, unlike the proposed ordinance, the actual one granted in so many words "the non-exclusive right" to operate a cable television system in Lakewood. Third, and very significant, the actual ordinance contained the following proviso on the grant of the right to operate the system:

. . . but the Company shall not originate or produce any program, signal, message or advertisement to be transmitted and distributed over or

through its system of wires or facilities in the City, except such as may be approved by the Council of the City.<sup>37</sup>

Fourth, instead of having Lakewood politely asking the phone company to co-operate with CATV, Incorporated "at reasonable, non-discriminatory rates," as it is stated in the model ordinance, the actual ordinance merely reads: "It is contemplated that the Company will make arrangements with Ohio Bell. . . ." A fifth difference between the two ordinances' wording comes in Section 8, where, in addition to the proposed edict that no interference to "direct-off-the-air television signals" was to be permitted there was clause stating that if any interference does exist and is not eliminated within one week, the franchise would be revoked.

On the topic of money, the ordinances conflict frequently. First, the maximum installation charge was raised from the proposed \$19.95 to \$25.00 and the maximum monthly charge was reset at \$5.90, instead of \$5.75. Second, there was the addition of the following paragraph in the Council version of the ordinance:

If for any reason . . . , said Company shall cease to furnish its services to its subscribers, the original installation fee shall be refunded, at a pro-rata basis, to all subscribers who had had the benefit of said service for less than one (1) year, each such subscriber to receive a refund of one-twelfth of said installation fee for each month,

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<sup>37</sup>Ordinance 6-66, City of Lakewood, Ohio, p. 1.

or portion thereof, in which the subscriber is not furnished said service by the company.<sup>38</sup>

Section 10 of both the proposed ordinance and the actual ordinance, concerning the annual payment to Lakewood by CATV, Incorporated, was almost entirely rewritten in the latter version. It included the recommended 3 per cent of the gross receipts, but only for the first 8000 dwelling units, with 5 per cent for the next 4000 and 8 per cent for any over 12,000. In addition, there was the following provision:

Notwithstanding the provisions contained herein for payment of an annual fee to the City, if the Council of the City determines that any rate or schedule of fees which the Company is obligated to pay to any other municipality of the same size or larger within Cuyahoga County, Ohio, is more favorable than the rate of [sic] schedule of fees provided for herein, then the City may require and the Company shall pay fees to the City in accordance with such more favorable rate or schedule.<sup>39</sup>

Also, there was a paragraph setting forth that payment be accompanied by a statement of service revenue received from the subscribers of CATV, Incorporated, certified by independent certified public accountants, and that all relevant records be open to inspection (by the city) for a period of six months following delivery of the annual statement.

The last, but certainly not the least, of the differences between the proposed ordinance and the actual

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<sup>38</sup>Ibid., p. 4.

<sup>39</sup>Ibid., p. 4.

ordinance concerns the deadline for construction of the system. Section 13 of the enacted ordinance provided, in contrast to Section 14 of the proposed ordinance, the following:

The Company agrees that it will immediately upon the passage of this ordinance, proceed to complete the engineering for the proposed television cable service and negotiate those pole line contracts required for said installation and complete and meet all rulings established by any other Governmental Agency.

The Company agrees to make the service provided for herein available to subscribers within one year of the effective date of this ordinance.<sup>40</sup> (emphasis added)

Since the proposed ordinance set the deadline at three years, one can only conjecture about the different course of history, if any, had CATV, Incorporated been allowed to begin operations two years later.

Ordinance 6-66, which enabled CATV, Incorporated to bring cable television to Lakewood, was adopted by the Lakewood City Council without a dissenting vote cast. With the exceptions listed above it was exactly the same as the proposed ordinance described on pages 17 and 18.

#### Preparation, Personnel, and Promotion

During the year between the adoption of the enabling ordinance and the first day of operations, CATV, Incorporated was very busy readying the new Lakewood system: completing its negotiations with Ohio Bell concerning the

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<sup>40</sup>Ibid., p. 5.

leaseback of equipment, making considerations on the scope of its planned experiment in local program origination, arranging for the purchase of a head-end system from the Jerrold Electronics Corporation, remodelling a paint store to serve as studios for the local origination channel, hiring personnel for the system, and promoting the service in order to enlist subscribers. Information on the negotiations with Ohio Bell and the managerial planning of the localized service, including information on the "testing" on various program types, is virtually unavailable. Understandably, the parent companies of CATV, Incorporated are not too proud of this singular failure in a major market and are not eager to release private files which might dredge up old difficulties. However, there is a wealth of descriptive information available on the system's hardware and software via press notices released in those beginning days when CATV, Incorporated was anxious for everyone to know all about their plans for Lakewood.

A press release from Jerrold Electronics to the people of Lakewood in the February 2, 1967 edition of the Lakewood Sun-Post is interesting not only for its basic information concerning the equipment used by CATV, Incorporated, but also for its indication of lack of planning on the part of CATV, Incorporated. The full-page advertisement assured Lakewood of high-quality television reception, with the description of its Jerrold Channel Commanders at the

head-end and of its solid-state Jerrold Starline Distribution System. But more importantly, the announcement included the following in its message to Lakewood, the heavily-populated suburb with its eastern boundaries sharing the Cleveland city line:

Now, at last, you're able to enjoy clear, snow-free television reception. . . . With the cable in, you're out of the "fringe area" for good.

\* \* \*

We welcome you to the growing family of communities enjoying crystal-clear TV pictures in areas once considered "out of bounds."<sup>41</sup>

One can only imagine what the citizens of Lakewood thought about being relegated to the "boondocks." Of course, Jerrold probably uses the same advertising copy for all the systems it serves and just changes the names, yet it was quite an oversight for CATV, Incorporated to allow such an advertisement, which was probably on a trade-off basis, to appear in its special promotional section of the Lakewood Sun-Post.

The location of offices and studios of Lakewood CATV at 14311 Madison Avenue, a former paint store location, was chosen because of the large amount of floor space (7200 square feet) and because it was one of the highest spots in Lakewood, affording top television reception for a temporary antenna. The building contained business offices, one studio, the control room, and a garage for the mobile

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<sup>41</sup>"Sincere Congratulations . . . to the people of Lakewood," Lakewood Sun-Post, February 2, 1967, p. 2-B.

video tape unit and installation trucks. The studio, constructed under the direction of Terry Spearen of Cox Broadcasting, was a 30 x 35 room with two black-and-white RCA cameras and quartz-iodine Kliegel lights. To facilitate the moving of equipment for remote programming, the entire system was transistorized.

Very little information is available concerning the details of finding people to operate the various phases of the Lakewood CATV operation. However, in an article about Bob Buck, sportscaster and news director for Lakewood CATV's Channel 6, some light is shed on the hiring techniques of CATV, Incorporated in the following:

Buck, who for a long time wanted to be a professional baseball player, worked at a myriad of jobs until one day last summer--when his wife Martha, spotted a newspaper ad--and helped change things.

"Wanted-TV announcer," it read.

"My wife talked me into applying," said Buck. "I had applied at so many places before, but the answer was always the same--'get some experience and come back.' But where could I get experience?

"However, I went for an audition--and was hired," Buck beamed.<sup>42</sup>

As for the other personnel at Lakewood CATV, there is data only on six of them: Hy Triller, a native of Canada with an extensive background in both theater and cable television, was the first manager; Greg Liptak, who was program director, had worked previously as Assistant News Director

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<sup>42</sup>Dick Zunt, "Bob Buck--Voice of Lakewood Channel 6," The Plain Dealer, December 14, 1967.



at WAND-TV in Decatur, Illinois; Sydney Staley, Lakewood CATV's women's director (and secretary), was a graduate of Ohio State, where she majored in English and Theatre; Joseph Speroni, a 30-year veteran of the Army and the Air Force, as a radio officer, was the chief technician; Robert Schmitt, who had been technical supervisor of an ITV system in Parma, Ohio, was chief engineer for the local origination channel; and Stewart Morrison, with television experience at stations WAST and WRGB, was the studio director, whose duties included copywriting and announcing. Staley, Buck, and Schmitt were originally from the Cleveland area, in addition to the high-school students who worked evenings and weekends as part-time cameramen.

The promotion of the Lakewood cable television operations was engineered primarily by use of newspaper advertising. Managerial thinking at the time was also geared to the idea that word-of-mouth advertising would spread from those who first subscribed to the cable service. Evidence of either the newspaper advertising or the word-of-mouth advertising is difficult to find; clipping files in both the Cleveland and the Lakewood libraries are devoid of advertising. A third kind of information on the promotion of the Lakewood system is abundant: press releases.

The first available news item, entitled "CATV Plans Local Shows," comes from the April 21, 1966 edition of the Lakewood Sun-Post. Unlike those to follow in the early

part of 1967, the article is not really an example of promotion, but it did serve to make the public aware of the coming service. The first important bit of information in it concerns the grant of permission by the Lakewood City Council to CATV, Incorporated to present local shows as long as the shows were not to be sponsored. Second, the article stated that the company was then awaiting FCC approval of a sending tower in North Royalton and that it would take six months to hook up local sets to telephone cables. Finally, it revealed that two other companies had applications for "pay [sic] television" franchises under consideration by Council. There is, however, no record of the names or proposals of these companies at the Lakewood City Hall.

The next article on the Lakewood cable television system comes from The Plain Dealer itself, on January 29, 1967. Entitled "Lakewood on CATV Beam," the article was written by Radio-TV Editor Bert Reesing and was concerned with all the services to be provided by Lakewood CATV. It detailed the various local commercial stations to be carried with interference-free reception, of particular interest, it said, to families living in "blind spots" on the east boundaries of Lakewood. The major part of the half-page spread, however, centered on the touted localized service. (The exact nature of the local programming on

Channel 6 will be described at a later point in this thesis.) Hy Triller is quoted on the subject:

" . . . our big service to this community," he said, "will be a dedication to Lakewood's spirit, its churches, neighborhoods, people, schools, athletics and all other activities.

We are unique in offering a genuine public service to this suburb's subscribers. Our Lakewood Channel 6 will cover a diversified programming schedule."<sup>43</sup>

The article also noted that visitors were welcome to inspect the new CATV facilities from 2 to 5 p.m. daily. Three photographs of the studio and weather scanner accompanied the free promotion by CATV, Incorporated parent, The Plain Dealer.

The day on which Lakewood CATV began its operations, February 2, 1967, marked the biggest splash of press releases and advertisements concerning cable television's coming to the Cleveland suburb. Probably in order to more effectively reach prospective subscribers in Lakewood, the promotional emphasis appeared in the Lakewood Sun-Post. The lead article in that newspaper appeared on the front page, with a photo of Hy Triller and Robert Schmitt inspecting a studio control panel, and the major portion of the advertising and news releases appeared in the same edition in a special eight-page section, which was certainly a very thorough piece of promotional work.<sup>44</sup>

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<sup>43</sup>Bert J. Reesing, "Lakewood on CATV Beam," The Plain Dealer, January 29, 1967, p. 4-A.

<sup>44</sup>"Cable TV is here!" Lakewood Sun-Post, February 2, 1967, pp. 1-B-8-B.

This article explained that both Ohio Bell and CATV, Incorporated were involved with the hook-up to home subscribers, with the phone company making the drop from the street to the house and the cable company making the connection from the drop to the television set(s), and that the local origination channel (TV-6) was to start immediately on a "test run" basis, with the complete schedule officially to begin on the next Monday (February 6, 1967). After listing the various services to be provided by Lakewood CATV, the article revealed that on the opening day only homes and business places south of Detroit Avenue would be eligible for installation, since cables had not been strung north of Detroit Avenue. (Geographically, at least 40 per cent of Lakewood's total area, including the homes and property of the very wealthy, lies north of Detroit Avenue.) However, those excluded households were to be serviced, for the most part, by the end of February 1967. Also, Hy Triller was quoted as saying that customer response was "gratifying" and that orders for the cable TV service were so backlogged that there was an 8 to 10 day wait for installation. Finally, the article called attention to the special eight-page section on Lakewood CATV.

The front page of this eight-page section proclaimed in two-inch type that "CABLE TV IS HERE!" and that the advantages of Lakewood cablevision were:

- |                           |                               |
|---------------------------|-------------------------------|
| *More Channels            | *24-hr. Weather Service       |
| *Better TV Pictures       | *24-hr. AP News Service       |
| *Save Antenna Costs       | *Local Lakewood Newscasts     |
| *Easy Tuning-All Stations | *Lakewood Sports Events       |
| *Ideal for Color          | *Special Local Programs       |
| *Hi-Fi Music              | *Uninterrupted Feature Movies |

The second page was a previously-mentioned advertisement for Jerrold Electronics. The third page contained biographical information on the key people involved with the local cable operation, with photos of each, and carried stories on the remodeling of the studios and on the second anniversary of UHF educational station WVIZ in Cleveland, which would be brought for the first time, via Lakewood CATV, to the many people who never bothered to get UHF converters for their TV sets.<sup>45</sup> In addition, there was a third-page advertisement for Ohio Bell Telephone which read, in part:

Cleveland Area TV, Incorporated will use Ohio Bell service to carry program material from its antenna location to homes of CATV subscribers in Lakewood. It's a natural choice. . . .

Although the announcement was promoting Ohio Bell's experience in providing circuits for the transmission of nationwide television and other communication, the last line in the above quotation, specifically its use of the word "choice" in reference to CATV, Incorporated, is still open to interpretation.

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<sup>45</sup>According to page 33 of its 1963 Annual Report, the FCC prohibited the interstate shipment of non-UHF TV sets made after April 30, 1964. This was done in accordance with an all-channel receiver law being passed on July 10, 1962 by Congress (76 Stat. 159-151).

The center spread, pages four and five, was one giant advertisement for Lakewood CATV, complete with mail-in coupon, list of the eight channels offered, and large headlines reading: "Don't Delay . . . Subscribe today! Be the first on your block to enjoy the benefits of Cable TV. . . ." One notable promotional claim was that color reception would be "unexcelled" over the cable system, but there was no mention of TV-6's being in black-and-white. The most unusual claim in the two-page promotion was a very misleading one: "[CATV, Incorporated offers] a new diversity in television programming available nowhere else in the nation!" Although Lakewood CATV was a pioneer in local programming, it was quite a lot of puffery to claim to be the only such pioneer in the country. The sixth page contained more information on Cleveland Area TV in the form of an article entitled "Questions and Answers About Lakewood CATV" and presented eight photographs covering half the page which concerned various phases of the local cable operations. The seventh page displayed a nearly-full-page advertisement designed specifically for TV-6, the local origination channel, containing detailed description of the services to be offered, services which will be discussed shortly. The final page of the special section was an advertisement for a television dealer in Lakewood.

The final news release available, concerning the debut of Cleveland Area TV, Incorporated in the city of Lakewood appeared in The Plain Dealer on March 1, 1967, the day after the formal launching of Lakewood CATV. Aside from the usual promotion of the local programming, the article stated that CATV, Incorporated hoped eventually to relay television stations from Toledo and Youngstown in Ohio and London, Ontario, and that the cable operators also were awaiting "a breakthrough in Washington" to start bringing variety programming from major urban centers via microwave.

#### Nature of the Services

The services provided by Lakewood CATV were carried, as mentioned above, on eight channels, which were as follows:

LAKEWOOD CATV CHANNEL	SERVICE
2	Cleveland's NBC network affiliate, WKYC, Channel 3
(3)	Unused due to ghosting (see <u>supra</u> , note 27)
4	Cleveland's ABC network affiliate, WEWS, Channel 5
(5)	Unused due to ghosting
6	Lakewood's local origination, 1 p.m. to 11 p.m.
7	Cleveland's CBS network affiliate, WJW, Channel 8
(8)	Unused due to ghosting
9	24-hr. AP news wire service, with FM music
10	Cleveland's educational station, WVIZ, Channel 25
11	24 hr. weather information, with FM music (WDBN)
(12)	Originally unused.
13	Akron's ABC network affiliate, WAKR, Channel 49 (now 23)

A few additional services were later added to this original schedule. First, Channel 11 was changed to make way for a televised stock market ticker. The stock market ticker was on a mandatory 15-minute delay and was only in operation, of course, during the 10 a.m. to 3:30 p.m. hours of the New York Stock Exchange (10:15 to 3:45 with the delay). The remainder of the air time on Channel 11 was used by the weather scan device. Second, a children's program was added to the cablecasting station schedule, thus resetting the sign-on for TV-6 at 11 a.m. Third, in January 1968 arrangements were made to provide for the then-new television station in Cleveland, WKBF, Channel 61, via the unused Channel 12. (Had Lakewood CATV survived longer, it would have had to also make arrangements for another new Cleveland-area signal, WUAB-TV, Channel 43 in Lorain, which did not go on the air until September 15, 1968.)

The most significant service of all those offered uniquely by the operators of Lakewood CATV was, undoubtedly, the local cablecast channel, TV-6. The other local originations, specifically the weather scanner, the AP news wire, and the stock market ticker, were not sufficiently motivating to prospective subscribers, for the most part. Even the possibility of receiving UHF educational programming for the first time, or in better quality, most likely did not inspire many people to subscribe to Lakewood CATV.



The average AM radio station provided all the weather information and news coverage which the ordinary Lakewood resident could have possibly desired. The stock market ticker was a valuable service to those persons who were very active investors; however, these persons most likely did not account for much of Lakewood's population. The UHF programming similarly appealed to only a handful. Furthermore, non-UHF receiver owners could hardly have missed television programming which they did not even know existed, especially since all three networks were available on VHF. If there was any service which could persuade Lakewood residents to arrange for cable installation, TV-6 was the one.

TV-6 was proudly hailed by its promoters as "Lakewood Television for Lakewood People" with its watchword being "Total Community Involvement." Except for the industrial and Hollywood film packages, this claim was true enough. Programming on TV-6 was delivered from eleven to fourteen hours a day, depending on the day and on the amount of programming available, and truly represented diversified local programming. However, at least five hours per day, and often six, were devoted to motion pictures. Three different movies were shown each day and the same three movies were shown all week. To accomplish this feat the hours were rotated so that each film was available at different hours each day. Because of the varying lengths of the

movies, free industrial films were used to fill in vacant spots in the schedule.

Despite the heavy diet of film programming, however, an honest attempt was made by CATV, Incorporated to bring a highly personalized service to the community of Lakewood. The various types of programs shown on TV-6 covered such a wide range that it can be safely said that the entire schedule seemed to be in a continual state of flux. There was, of course, some semblance of a consistent daily fare.

At 11 a.m. there was a children's show, which in comparison to the kind available on the average commercial station, locally produced, was typical. Following it, depending on the day, was either a film or one (or more) of the many special-interest programs which fit into the following categories: cooking instruction, exercises, home decorating instruction, fashion discussion, a call-in "want ad" program, demonstrations of floral arrangement, demonstrations of ceramic decoration, high school student reports, and even soccer games.

At 1 p.m. a 90-minute program called "Midday" was dedicated to women's features and was hosted by women's director Sydney Staley. "Midday" featured household hints from local experts and occasionally held discussion by groups of local women. Two regularly appearing women on the program were Mrs. Louise Lamb, who gave instructions on

knitting and handicraft, and Mrs. Angela Cook, whose topic was sewing.

From 2:30 to 3:30 p.m., TV-6 presented a program on community affairs entitled "Focus on Lakewood," which had a different topic for every day of the week. One day of the week was devoted to religious matters, in a program called "A Chat with the Clergy," which featured a triumvirate of local religious men: Rev. Phillip P. Whitaker, senior pastor of Lakewood Baptist Church; Father Edward J. Murray, assistant pastor of St. Clement Roman Catholic Church; and Rabbi Frederick H. Grosse, of Beth-Israel Temple West. Another day was devoted to health, in a program called "To Your Good Health," which featured prominent medical experts and practitioners who answered listeners questions about specific health topics. A third format for "Focus on Lakewood," entitled "Basis for Decision," concerned community-wide problems, with discussion by representatives of several points of view. Other formats dealt with school affairs, city government officials, and law enforcement. Following "Focus on Lakewood" (also known as "Focus"), was an hour devoted to films or special-interest programs of the sort described above.

At 4:30 p.m. Lakewood TV-6 presented a half-hour program called "Teen Talk," which featured a panel of four teenagers from local schools, who discussed various topics. The four panel members stayed an entire week in order to

carry the same topic from one day to the next for one week. "Teen Talk" was produced in cooperation with the Lakewood YMCA and YWCA. At 5 p.m. various filler programming was presented for a 45-minute period.

From 5:45 to 6:00 p.m. TV-6 news director Robert Buck went on live with the local news. The program was also videotaped and repeated four times between 6 and 7 p.m., in order that viewers could have a chance to watch their favorite network news programs on other channels and then switch over to TV-6 whenever it would be convenient.

Originally the 7 o'clock segment of the schedule was set aside for a half-hour children's show, which was followed by a post-1959 Hollywood film feature, under the logo "Playhouse," until 9 p.m. Later, however, after the advent of the 1 a.m. children's program and the three-movies-per-day idea, there was instead a two-hour program each evening beginning at 7 o'clock which featured "pop" music, with high-school students serving as on-camera disc jockeys, playing records that are requested by listeners calling in on the phone.

"Sports Spectacular," featuring videotapes or films of national or local events, was shown each evening at 9 p.m. Examples of athletic events covered by "Sports Spectacular" included: local high school basketball, football, and softball games; city softball tournaments; soccer games from the Cleveland Stadium; and league bowling every Saturday

(taped and shown on Sunday and Monday) at four local bowling establishments. A regular feature of TV-6 programming was a segment called "Coaches' Corner," on which coaches and players were invited to analyze past and future sporting events.

At 10 o'clock a rerun of the afternoon's "Focus on Lakewood" was shown so that those who worked during the day could view the program, too. Another local newscast was telecast at 11 p.m., often with coverage included of local council and school board meetings of that evening.

It must be remembered that the daily schedule of TV-6 varied quite a bit over the eighteen month life of Lakewood CATV. Since programming was not sponsored, it was not difficult to make last-minute changes in the daily offerings. This schedule flexibility had one substantial drawback, however, since it was often unclear to subscribers what the schedule was. This problem was intensified by the fact that both of the local Lakewood newspapers refused to include TV-6 in its television listings free of charge.

The cable's audience played a potentially major role in the programming of TV-6. First, there was at all times during the operation of TV-6 a standing invitation to the people of Lakewood to come up with programming ideas; those with ideas for a television program were to contact Lakewood CATV. A second audience participation innovation on TV-6 was called "reruns by request," by which requests for

reruns of any TV-6 programs were honored by its showing in morning or late night hours when no regular programming was scheduled.

The National Community Television Association (NCTA), an organization dedicated to the interests of cable television operators, which, under the leadership of Frederick W. Ford, had been encouraging cable operators to originate local programs since 1966,<sup>46</sup> was very interested in the cablecasting activities of Lakewood CATV. So interested was the NCTA in the Lakewood venture that it sponsored a "how-to" seminar on local program origination in Lakewood, Ohio, on March 30 and 31, 1967, just one month after the formal opening of the city's system. About 50 CATV managers across the country attended the two-day Lakewood meeting which featured the following speakers: Jim Crooks, of the Ampex Corporation; Ken Lawson, of Telemation Incorporated; Jay J. Merkle and Robert Leyer, both of Teleprompter Incorporated; Bill Adler, connected with CATV operations in Weston, West Virginia; S. S. Street, of the NCTA; and Hy Triller, general manager, and Greg Liptak, program director, both of the Lakewood system.<sup>47</sup>

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<sup>46</sup>"F. W. Ford urges CATV operators to produce local shows," Advertising Age, July 4, 1966, p. 20.

<sup>47</sup>"Cablemen to study local origination," Broadcasting, March 20, 1967, p. 73.

Finance

The cost to subscribers for all the services offered by Lakewood CATV was \$5 per month, with a \$15 installation fee. In its year and a half existence, Lakewood CATV had a maximum of 1500 households attached to its service, out of a possible 25,000 households. Assuming, for the sake of simplifying the numbers, that all 1500 subscribed the first month and stayed on until the failure (such was not the case), the annual income per subscriber, excluding installation fees,<sup>48</sup> <sup>was</sup> \$60.00. Annually, then, the cable operators could count on \$90,000 from the 1500 subscribers. Since there was no advertising on TV-6, the revenue received from the cable subscribers was the sole income for Lakewood CATV.

There is scant information regarding the exact financial affairs of CATV, Incorporated's venture in Lakewood, possibly because of its owners' reluctance to be further embarrassed by this failure. However, William Pitney, the manager of Lakewood CATV during its final twelve months and now vice-president of operations for Cox Cablevision, did state that the Lakewood system needed at least 5000

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<sup>48</sup>Installation fees were not included for two reasons: (1) the \$15 charge was used exclusively to pay for the costs of installation, and (2) the installation fees were one-time payments which could not be figured in the annual per-subscriber income.

subscribers just to break even.<sup>49</sup> Thus, if CATV, Incorporated needed at least \$300,000 per year in revenue to stay above water, the Lakewood venture lost at least \$300,000 (\$200,000 a year) during its 1 1/2 years of cablecasting to the people of Lakewood.

The \$300,000 annual liabilities of Lakewood CATV broke down as follows: 3 per cent revenue payment to the city, capital investments, programming costs, wages and salaries, utilities, rent, leaseback overhead, and assorted costs such as depreciation on assets, return on investment, and interest on loans. Again, there is little information available on Lakewood CATV's budget, especially such intricate financial data as cash flow or depreciation. However, in the aforementioned Rand study N. E. Feldman has broken substantial ground in the mystery of Lakewood CATV's financial records; the figures quoted below on capital investment, programming costs, and operating expenses are his.<sup>50</sup>

Since the city only received payment based on a percentage of the monthly fees, and not on the installation charges, the annual cost of operating the cable system for 1500 subscribers paying \$60 per year was \$2700, payable to the city of Lakewood. This sum represented only nine-tenths

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<sup>49</sup>William Pitney, personal interview held via telephone on January 22, 1973.

<sup>50</sup>Feldman, op. cit., p. 15.



of 1 per cent of the total annual liabilities (as set by Mr. Pitney).

The total capital investment in the cablecasting facilities and equipment, including a mobile studio van and the permanent studio, was approximately \$75,000. The two RCA PK330 black-and-white cameras together cost \$11,600, and the custom-built van cost about \$5000. The expenses involved in constructing the permanent studio and remodeling the offices of Lakewood CATV were in the neighborhood of \$37,500. The remaining \$20,900 was spent on the head-end equipment.

The total annual programming budget was approximately \$75,000, of which \$10,000 went for the feature film package of two hundred motion pictures for the year. The remaining \$65,000 was spent for the six to eight hours daily, on a five-day week, of live or taped cablecasting. Since all live programming was taped for replay and repeated at least once (largely on the weekends), the average cost of local-origination programming was about \$70 per hour.

Personnel and a prorated portion of the heat and electricity were paid out of the operating budget, which varied from \$6000 to \$6500 per month, or about \$75,000 annually. This total operating budget figure, however, does not include rent of the office studio and space used by Lakewood CATV.

By subtracting the costs listed above from the necessary \$300,000 per year total budget for Lakewood CATV, the remainder to have been spent on rent, leaseback overhead, depreciation and amortization, and interest on loans, was between \$75,000 and \$100,000 annually, depending upon how much of the capital investment was recovered per year.

It is truly unfortunate that no precise data exists for the public on what the monthly payments were to Ohio Bell for the leaseback arrangement; Ohio Bell refuses to release such financial figures, and, since cable television is not a "common carrier" as presently defined, the Public Utilities Commission of Ohio (PUCO) does not have the exact rate schedules for Lakewood on file. However, when Ohio Bell officially entered the cable television business on April 9, 1965, it filed a rough estimate of rates with the PUCO, along with an agreement to guarantee satisfactory transmission for a distance of 11 miles from the head-end of any cable system served under the leaseback arrangement. According to an article in Advertising Age, the monthly rates charged by Ohio Bell, as filed with the PUCO, were between \$8.25 and \$16.25 per month for each quarter-mile of cable.<sup>51</sup> As mentioned earlier, the Lakewood system consisted of 90 miles of cable. Thus, the monthly charge to Lakewood CATV fell somewhere between

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<sup>51</sup>"Ohio Bell Enters CATV," Advertising Age, May 10, 1956, p. 80.

\$2970 and \$5850; annually the leaseback arrangement cost the owners of CATV, Incorporated between \$35,000 and \$70,000. Despite the fact that the same \$75,000 to \$100,000 (based on Pitney's break-even figures) out of which the leaseback payments were to come also paid the rent, depreciation and amortization, and interest on loans, the yearly payment to Ohio Bell probably was closer to the \$70,000 figures than the \$35,000 figure--approximately \$60,000 per year.<sup>52</sup>

In his chapter on Lakewood CATV in the Rand study on local program origination, author N. E. Feldman does not even mention the leaseback arrangement between CATV, Incorporated and Ohio Bell.<sup>53</sup> Yet, the arrangement turned out to have been a crucial issue. In the telephone interview with the ex-manager of Lakewood CATV mentioned above, Mr. Pitney admitted that "we could have broken even with less subscribers than that [5000] had we not had the high leaseback payments."<sup>54</sup> Indeed, it would have been better for CATV, Incorporated to have been able to string its own

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<sup>52</sup>A similar system also owned 45 per cent by Cox Cablevision in Toledo, Ohio, but one with more miles of cable, paid Ohio Bell \$777,000 for installation of cable and was committed to monthly payments totalling over \$5 million over a ten year period. See 3 FCC2d 811.

<sup>53</sup>Feldman, op. cit., pp. 14-18.

<sup>54</sup>William Pitney, op. cit.

cable in Lakewood and pay pole-attachment rights to Ohio Bell. In 1965 the per-pole annual charge asked by the Bell companies was about \$2.50, although there was some concern at the time that the fee would rise.<sup>55</sup> According to an engineer at Ohio Bell in Columbus, cable television requires approximately 26 telephone poles per mile of cable.<sup>56</sup> Thus, the Lakewood system used at least 2340 poles for the attachment of its 90 miles of cable; the annual pole-attachment fee to Ohio Bell would have been about \$5850, the same as the monthly leaseback payment (high estimate) required by Ohio Bell. Of course, Lakewood CATV would have had to buy the cable outright, at \$4,000 per mile, for \$360,000. Yet, after about seven years the leaseback arrangement would have proved costlier than private ownership of the system by CATV, Incorporated, since, under the latter process, the cost of pole-attachment rights plus the entire cost of the system of cables would have been about \$400,000 at year seven, as compared to \$420,000 at year seven under the leaseback arrangement (with the difference to grow much wider with additional years). It is a small wonder that Ohio Bell did not want to only lease pole-attachment rights, since there was more money to be made with the leaseback arrangement. Moreover, those

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<sup>55</sup>"CATV'S big issue: Pole lines," Broadcasting, July 12, 1965, p. 55.

<sup>56</sup>William Olgson, personal interview via telephone, February 22, 1973.

cable operators in other states which did build their own systems found that Bell Telephone wanted to raise the pole-attachment rates to about \$4 per pole per year, in order that existing private systems be more on par with those under the leaseback arrangement.<sup>57</sup> The negative impact of the leaseback arrangement was even more far-reaching, as it will be later shown.

Ohio Bell was taking a substantial risk, however, by leasing the Lakewood system to CATV, Incorporated, since the latter was presumably able to "temporarily discontinue" its operations and leave Ohio Bell with a great amount of unused cable trunks "hanging around." There are no public records available concerning the losses of Ohio Bell.

Just how well the owners of CATV, Incorporated absorbed the quarter of a million dollar loss during the Lakewood venture is not a matter of public record. It is known, however, that within two weeks of Lakewood CATV's termination of service, the Cox Broadcasting Corporation (CBC), 100 per cent owner of Cox Cablevision, which owned 45 per cent of CATV, Incorporated, disclosed its plans, effective in October 1968, to finance expansion of its CATV operations by publicly selling minority interest, 20 per cent or 500,000 shares, in its renamed subsidiary, Cox Cable Communications, Incorporated, plans which were to

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<sup>57</sup>"Bell's CATV rates probed in New Jersey," Broadcasting, July 5, 1965, p. 37.

raise close to \$7 million in new equity capital.<sup>58</sup> CBC reported on July 30, 1968 that revenues for the first half were up 13.8 per cent from 1967, but that net profits dipped 14 per cent from the previous year.<sup>59</sup> Of course, CBC is not only involved in cable ownership, but also in program production and distribution and in the ownership and operation of five VHF television and four AM-FM radio stations in Atlanta, Charlotte, Dayton, Pittsburgh, San Francisco/Oakland and Miami. Yet, J. Leonard Reinsch, president of CBC (and CATV, Incorporated) at the time, said in his explanation of another net loss in the third quarter of 1968 (which included the final month of Lakewood CATV's operation) that the "cable television operations all showed gains."<sup>60</sup> Surely he was speaking of a total net gain. Moreover, it is inconceivable that CBC, with a 1968 stockholder equity of \$48,844,060, suffered from a quarter-million dollar loss; CBC most likely could have continued operation of the Lakewood system until the FCC changed its cable rules in 1972, despite losses, if it had chosen to do so.<sup>61</sup> It was The Plain Dealer which had the controlling

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<sup>58</sup>"Cox Selling Slice . . . ," loc. cit., p. 33.

<sup>59</sup>"Cox Revenues Up, But Earnings Dip," Variety, July 31, 1968, p. 34.

<sup>60</sup>"Cox Net Down for Qtr. & 9 Months; Cite CATV as Strong Growth Factor," Variety, October 30, 1968, p. 38.

<sup>61</sup>Cox Broadcasting Corporation, Financial Statement 1968 (Atlanta, Georgia: Cox Broadcasting Corporation, 1969), p. 4.

interest in CATV, Incorporated, however. Perhaps it just grew tired of its only cable television system being "in the red." Unfortunately, there are no financial figures available for The Plain Dealer which are comparable to those of the CBC.

### The Failure

When the end finally came, it came quietly. On July 31, two press releases appeared in the two Cleveland newspapers. The Plain Dealer disclosed that on the day previous CATV, Incorporated had announced plans to "suspend temporarily its operations of a cable television system in Lakewood." (It is important to note that The Plain Dealer did not tell how long it would be until the "temporary" suspension would end.) The article continued by attributing to William Pitney the idea that "restrictive" FCC regulations concerning distant signal importation were to blame for Lakewood CATV's failure to attract enough subscribers. The final sentence stated that The Plain Dealer is a co-owner of CATV, Incorporated. The other article from a Cleveland newspaper appeared in The Cleveland Press, owned by Scripps-Howard Publishers (which, as mentioned earlier, had a controlling interest in Cleveland's largest cable television baron, Telerama), and presented the same story with two basic differences. First, it neglected to give a reason for the suspension of services, and, second,

it disclosed that city officials in Lakewood had been advised that it would be at least two years before the cable television service could be started again in that city.<sup>62</sup> Actually, these two press releases were only official notices of the Lakewood cable failure; a week before, in his radio-television column in The Cleveland Press, Bill Barrett hinted that the Lakewood CATV company was "ready to give up," and he said further:

If they fold--and no one at this writing will confirm or deny--it would hit the cable television business smack in the reputation. Folding cable outfits are as rare as four-star TV movies on the late-late show.<sup>63</sup>

Lakewood CATV officially set September 1, 1968 as the date when its operations would completely halt, although the cablecasting was discontinued as of the morning of August 1st. The only Lakewood paper to carry the story of the failure was The Lakewood Ledger, which quoted Pitney as saying: ". . . it's a shame that the service was not accepted by the community."<sup>64</sup>

Broadcasting, a radio-television newsweekly, printed a story relating the demise of Lakewood CATV in its August

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<sup>62</sup>"CATV to Halt Operations in Lakewood," The Press, July 31, 1968.

<sup>63</sup>Bill Barrett, "Lakewood Cable Company Reported Ready To Give Up," The Press, July 23, 1968.

<sup>64</sup>"CATV Suspends Operation," The Lakewood Ledger, August 1, 1968.



5, 1968 issue.<sup>65</sup> The article quoted a spokesman for Cleveland Area TV as saying that although there was "nothing pending" and "nothing was refused," there was a "restraint" inherent in the Second Report and Order. Details of the local program origination in Lakewood were also described by the news release. Lakewood CATV program director Greg Liptak was quoted as having said at the 1968 Boston convention of the National Cable Television Association, just one month previous to the failure, that cable's future in major market cities rested principally in providing "counterprogramming."<sup>66</sup> Finally, the article termed the system as being placed in a "state of suspension."

In a letter to the Lakewood City Council dated August 27, 1968, Pitney wrote to inform the city of the nature of CATV, Incorporated's withdrawal from the cable television business in Lakewood. The first half of the letter was almost identical to the press release of July 31, 1968, in The Plain Dealer. The second half contained the following information: (1) CATV, Incorporated planned to retain the lease on the offices and studios at 14311 Madison Avenue; (2) there would be refunds of installation fees, in accordance with the franchise; (3) the \$10,000 bond re-

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<sup>65</sup>"Local CATV feels 'restraint,'" Broadcasting, August 5, 1968, p. 40.

<sup>66</sup>For original quotation of Liptak, see the July 8, 1968 issue of Broadcasting.

quired by the ordinance would be "maintained"; and (4) arrangements had been made with Ohio Bell to leave intact for the present all cables, wires, and appurtenances. There is no mention in the letter, or anywhere else, of plans to sell head-end equipment in order to recoup losses incurred during the eighteen-month life of Lakewood CATV.

Two years later, on July 7, 1970, Pitney wrote George J. Usher, chairman of the Lakewood City Council's Utilities Committee to inform him of the FCC's then recent Notice of Proposed Rule Making,<sup>67</sup> which Pitney believed to make Lakewood a viable market, and to request a hearing on July 20th in order to arrange for a two-year extension of the original two-year suspension granted on August 30, 1968. Evidently the meeting went well for Pitney, because on August 7, 1970 William E. Blackie, Assistant Director of Law in Lakewood wrote the Council recommending that it grant the extension without a change in the franchise.

However, two more years later, both CATV, Incorporated and the city of Lakewood found the 1966 ordinance to be outdated, in light of the new cable television rulings released by the FCC on February 3, 1972,<sup>68</sup> and on June 19, 1972 proceeded to adopt a new franchise ordinance

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<sup>67</sup>FCC 70-676: 24 FCC2d 580 (1970); 35 Fed. Reg. 11045 (1970).

<sup>68</sup>FCC 72-108: 36 FCC2d 143.

(No. 34-72) which incorporated the new Federal rules, especially Section 76.31, and made a few minor changes otherwise.

At the time of this writing, CATV, Incorporated is busy in Lakewood taking the necessary technical, financial, and legal steps to put the citizens of that suburb of Cleveland back "on the cable." According to Section 76.61 of the new rules mentioned in the last previous paragraph, Lakewood CATV would be permitted to import the signals of three independent television stations outside of its Grade B contours, as it originally had planned to do. Now, Lakewood residents will have good reason to subscribe to the future service, and Cleveland Area TV, Incorporated will finally succeed, provided that the importation of signals from independents is not complicated by the program exclusivity regulations of the latest FCC pronouncement on the course of cable television. One FCC commissioner is not optimistic about the future of cable television in the top-50 markets.<sup>69</sup> It will be interesting to see how it all works out in Lakewood.

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<sup>69</sup> Ibid., p. 311. Commissioner Nicholas Johnson presents some very persuasive arguments that the program exclusivity rules in the top-50 markets will have deleterious effects on the importation of distant signals. The Lakewood system, now in ARB market number 8, may be able to import independent signals, but the question remains as to the acceptability, in the eyes of potential subscribers, of the enforced practice of "blacking out" of programming on these imported independents, whenever it is "owned" by local over-the-air broadcasters.

### III. WHY LAKEWOOD CATV DID NOT SURVIVE

There are essentially ten reasons why Cleveland Area TV, Incorporated did not survive. Briefly, these are:

1. The FCC's Second Report and Order of March 8, 1966 made it improbable to import distant signals necessary for Lakewood CATV to enlist subscribers.
2. The cablecasting experiment failed because, as a suburb of Cleveland, Lakewood has insufficient community spirit to support community-oriented programming.
3. Much of the cablecasting programming had little audience appeal.
4. Lakewood CATV's local TV-6 was programmed in black-and-white (to save money) at a time when color television was beginning to become very popular with the public.
5. The state of the art in equipment and techniques was not far enough advanced to serve satisfactorily an audience accustomed to commercial network programs.
6. There were no suitable means of advertising the cablecasting services on a day-to-day basis.
7. The handling of customer complaints was unduly complicated by the leaseback arrangement.
8. There was little, if any, chance for the average viewer to view TV-6 continuously; TV-6 was a "tune-in then tune-out" service.
9. The entire effort to provide local-oriented programming was not really planned until the final stages of the arrangements to build the system.
10. Once the local programming was installed, it was viewed by management not as a permanent facility so much as it was viewed as something to hold onto

while waiting for the FCC to allow distant signal importation into the top-100 markets.

Before giving the details on each of these ten factors, it is fitting at this point to give the official reasons, in the eyes of those directly involved, for the failure of the Lakewood system. When Cleveland Area TV, Incorporated notified the various news media at the time of the Lakewood CATV demise, the blame was squarely placed on the FCC regulations prohibiting importation of distant signals into the top-100 television markets. However, there was absolutely no attempt by CATV, Incorporated to give reasons for failure of TV-6's ability to attract subscribers, an ability which, in theory, could have made the system viable regardless of the legal status of distant signal importation into the Cleveland market. Of course, it is not very unusual for a company to remain silent on its own lack of good planning. Indeed, the Lakewood cable operators were largely responsible for what happened to TV-6 since the FCC had not yet enacted rules on cable-casting.

But there were two outside influences which kept Lakewood CATV from accepting entire blame for the failure of both the system and TV-6. First, the city council prohibited advertising on the local cable channel. Perhaps if local merchants were allowed to promote their products and services on TV-6 as they could have done if TV-6 had

been a over-the-air TV station, the management of Lakewood CATV would have had sufficient financial backing to provide extremely attractive programming and thereby increase subscriptions to the service. A second, and more important, influence, however, was the leaseback arrangement with Ohio Bell, under which Lakewood CATV had to pay, in the words of Bill Pitney, "high monthly overhead."

It is strange that no mention was made of the deleterious effects of the leaseback arrangement when the Lakewood system failed. Years later, however, interviews with Pitney and with Robert Schmitt, ex-chief engineer of Lakewood CATV and the only member of the original staff still living in the Cleveland area, reveal that the leaseback payments were crucial to the decision to cease operations in 1968. A possible explanation for this past unwillingness and present willingness to blame the set-up with Ohio Bell may just be that, after the FCC broke the power of the phone companies over private cable television operations in 1970, as described earlier, the operators of CATV, Incorporated, who had plans to try again in Lakewood and other Cleveland suburbs, no longer feared the consequences of publicly pointing out the inequities of the leaseback arrangement with Ohio Bell. This line of reasoning might also explain why those persons interviewed by Feldman for his chapter on the Lakewood venture did not lead him to the leaseback arrangement as a factor at work

in the downfall of Lakewood CATV's local origination.

The first six of the ten factors listed above are from Feldman's report, Cable Television: Opportunities and Problems in Local Program Origination. In the summary of that Rand study, he gave the following statement:

The experiment with local origination in Lakewood was a failure simply because it was not possible to attract large numbers of subscribers by locally originated programming alone. The cable operator was not only faced with strong competition from the well-developed, over-the-air service of good signal quality available in the Cleveland area, but was also handicapped by the lack of community spirit in Lakewood. . . . [T]he Lakewood operator was not able to depend on importing distant signals to assure the profitability of the cable system.<sup>70</sup>

Unfortunately, the entire story of the failure is not explained so "simply" as Feldman may imply, as will be shown later in the explanation of the final four factors.

Without a doubt, the FCC's decision to effectively halt importation of distant television signals into the top-100 markets had a profound effect on the plans of Cleveland Area TV, Incorporated.<sup>71</sup> Although the microwave limitations of the First Report and Order had a serious effect on CATV, Incorporated's original 1965 plans to put Lakewood homes on the cable, it was the 1966 freeze on the

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<sup>70</sup>Feldman, op. cit., p. vi.

<sup>71</sup>This factor of government regulation proved ironic in light of very optimistic statements made by Cox Broadcasting president J. L. Reinsch in 1965. See "Reinsch: Government Regulation No Threat To CATV Investments," Sponsor, April 19, 1965, p. 24.

top-100 markets which really crippled the cable operators' chances of succeeding, since the name of the game in the immediate Cleveland area was not so much the importation of extremely distant signals, but the importation of any signals not available over-the-air in good quality via an ordinary outdoor TV antenna. The intent of the FCC to protect independent UHF in major markets by its freeze of distant signal importation,<sup>72</sup> as well as the impact of the controversial Seiden Report,<sup>73</sup> did not really matter to the owners of the Lakewood system, since the effect of the Second Report and Order, not the causes, made for the problems involved in operating a viable cable television service in the Cleveland area.

CATV, Incorporated never did seek an evidentiary hearing to show that it deserved special relief from the distant signal importation regulations. Feldman does not question this apparent disinterest on the part of Cleveland Area TV, Incorporated in his chapter on the Lakewood system's local origination. Only through a personal interview with Robert Schmitt, who was chief engineer of Lakewood CATV, did the reluctance of CATV, Incorporated to take legal steps become clearer. He explained that Cox Cablevision was preoccupied with another cable system in

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<sup>72</sup>2 FCC2d 725, pars. 111-146.

<sup>73</sup>38 FCC 683, pars. 20, 32; 2 FCC2d 725, pars. 119-120.



Toledo, Ohio.<sup>74</sup> Upon further investigation, it turns out that Cox owned 45 per cent of the system, just as in the Lakewood case, and that Toledo also was in the top-100 markets (26th in 1965), a fact which made the distant signal importation regulations applicable to non-grandfathered systems. This system, Buckeye Cablevision, Incorporated, began operations on March 16, 1966, about one week after the release of the Second Report and Order. In violation of these rules, specifically Section 74.1107, Buckeye Cablevision, Incorporated imported distant signals into the Toledo market and on March 25, 1966, received a order from the FCC to show cause why it should not cease and desist from such operation and to appear at a hearing to be held on April 28th. In that hearing and other proceedings, Buckeye applied for special relief from Section 74.1107 and, on May 25, 1966, in separate orders by the FCC, was denied relief and ordered to cease and desist its violation of rules.<sup>75</sup> The arguments by Buckeye in the hearings, in general, pointed out the tremendous financial investment made in the Toledo system prior to the Second Report and Order and pleaded that such huge obligations made Buckeye worthy of special relief. The lack of sympathy in this case by the FCC was of particular importance

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<sup>74</sup>Robert Schmitt, personal interview in Lakewood, Ohio, January 9, 1973.

<sup>75</sup>3 FCC2d 798; 3 FCC2d 808.

to those behind the Lakewood venture, since Lakewood, also with great plans before the March 8, 1966 ruling, had far less about which to complain in regard to getting stopped cold by adverse regulations, in light of the fact that Lakewood CATV did not start operations until February 2, 1967. Certainly, the FCC decision on May 25, 1966 squelched any thoughts on the part of Lakewood CATV to ask for special relief and probably finalized the idea of local origination programming as a way of attracting subscribers in the Cleveland area. Furthermore, since any arguments in an evidentiary hearing imagined by Lakewood CATV would have to show why its cable operation would not be injurious to local UHF independents, there would be the uncomfortable memory that in the Buckeye Cablevision case in Toledo it was a dubious act to call the local UHF station (which the FCC clearly favored) a true independent, whereas Cleveland's UHF was an educational station. Thus, all the Lakewood system could really do was to try its hand at cablecasting, at least until the FCC softened up enough to allow importation of two Canadian stations which Lakewood CATV had been eyeing. The rest of the reasons for the failure, therefore, deal with the role of TV-6's downfall in the overall unsuccessful history of Lakewood CATV in 1967 and 1968.

The first reason which Feldman cites as a contributory factor to the failure of TV-6 was that Lakewood, as a metropolitan suburb of Cleveland rather than a separate community or separate market, did not have a substantial number of inhabitants who cared about local activities or affairs. With the largest city in Ohio at their side door, Lakewood residents often lose sight of the separation between the city and the suburb. Legally and politically, Lakewood is separate, but no one would know to look at the street signs. Lake Avenue, Clifton Boulevard, Detroit Avenue, Madison Avenue, and Franklin Boulevard, five of the eight major thoroughfares in Lakewood are merely continuations of identically named streets in Cleveland. Furthermore, citizens of Lakewood can get all the pertinent news concerning them over the Cleveland television stations. (Particularly indicative of Lakewood's independence on Cleveland is that, in a city of over 70,000 people, there is no radio station.) Like certain cities in New Jersey near New York City, Lakewood is a "bedroom community" to those who work and shop in Cleveland. Of course, this is not to imply that a community spirit in Lakewood did not exist; but such spirit was not nearly as strong as the organizers of Cleveland Area TV, Incorporated had imagined (which was about the extent of their research).

A second reason for the failure of TV-6, and compensatory explanation set forth by those who insist that

Lakewood has great community spirit, is that much of the programming had little appeal. Feldman points out some specific examples in his Rand study: (1) a swap show, which can be a real blockbuster on a large system, is a waste of time on a small system (on some days there were no callers-in); (2) the free industrial films were dull and the movies were too dated; (3) the originations were often very amateurish and experimental; and (4) an overall indication that programming left much to be desired was the fact that parents of high school students on the school teams would sometimes subscribe to Lakewood CATV only for the season, instead of year-round. Feldman also notes that advertising revenues might have improved things greatly, but could not because of the City Council's ban on cable advertising.

A third factor, and one related to the second, was that all programming on TV-6 was in black-and-white. According to Feldman, Lakewood had 35 per cent color television set penetration, thus reducing the appeal of the origination programming to an audience which both valued television highly and which could afford a color set. Another aspect of the black-and-white factor is that at the time, the three major networks, for the first time, were all offering full-color program schedules--a fact which increasingly made monochrome fare out-of-style.

Feldman's fourth reason for the failure of TV-6 concerns the state of art in equipment and techniques, which did not seem far enough advanced. He cites the AP news wire as not particularly pleasant to watch: the letters were often unclear because of faulty inking and the material was presented much slower than any given comfortable reading speed. Furthermore, he claimed that it was a herculean effort to move the equipment to and from the studio and the mobile van. This lack of easy mobility had an indirect effect on the quality of programming: Because it was expensive in terms of time and wear on equipment which was not designed for constant moving, there was less money available for higher quality programming on TV-6.

At present, however, equipment, techniques, and programming sources are vastly different from 1967 and 1968. New compact television cameras, available in either color or black-and-white, have substantially solved the problems of mobility and quality. Furthermore, the method of videotaping on remote locations is easier nowadays with the new compact half-inch video recorders which are a marked improvement over the bulky helical-scan videotape recorders using two-inch tape which were the only available means of videotaping during the Lakewood CATV venture. As for programming sources, there is presently much in the way of low-cost film packages which were not available

five years ago to the same extent. Had Lakewood CATV held on for just a few more years, it could have turned out better quality programming on TV-6 for less money, thus helping the cable system to succeed in attracting subscribers.

Feldman does not, however, note one very important relationship common to his second, third, and fourth factors leading to the demise of Lakewood CATV's efforts in local program origination. The bringing together of these reasons for the failure of TV-6 creates a kind of "hybrid" reason for the non-acceptance of local origination: Potential audiences in Lakewood expected network quality over their television sets. Unsteady camera operation, black-and-white, unexperienced talent, Grade C movies, public affairs instead of entertainment and a general lack of "slickness" all combined to make TV-6 unbearable to a vast number of people who were conditioned by commercial broadcasters to expect perfection--perhaps bland, irrelevant perfection, but all the same, perfection.

The fifth reason for the failure of TV-6, according to Feldman, was that no inexpensive, effective means was available for informing subscribers, potential or active, about the local origination programming on a day-to-day basis. For one thing, he points out that for a long time there was no consistent program schedule with which to build a loyal audience. Once such a schedule evolved, the

operators of Lakewood CATV found that the Lakewood newspapers refused to print the listings for TV-6 in their television sections because only 6 per cent of the city was on the cable and that advertising in the Cleveland newspapers, aside from reaching too many persons not in the promotional "target group," was just too costly.<sup>76</sup> At first, Lakewood CATV purchased advertisements each week in the Lakewood papers to let the city's residents know the schedule of TV-6. Even though direct mail was a cheaper method, the cable operators hesitated to stop its weekly newspaper listings, lest the system lose its only active means of attracting new subscribers. After a while, however, it seemed that the advertisements were not worth the extra expense, in terms of attracting subscribers, and Lakewood CATV began to inform its active subscribers of TV-6's schedule by direct mail.

Of the remaining four factors, those which Feldman does not cite in his explanation of the Lakewood failure of local program origination, the most significant in terms of life or death for Lakewood CATV concerns the complications of the leaseback arrangement between Cleveland Area TV, Incorporated and Ohio Bell Telephone. In earlier sections of this paper the financial burden created by the

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<sup>76</sup>It seems very strange that The Plain Dealer did not offer to carry the TV-6 schedule for free in its television section.

monthly overhead payments to Ohio Bell has been thoroughly discussed. In addition, mention has been made of the veritable straight-jacket in which cable companies like CATV, Incorporated were held by the phone companies whose ownership of poles and easement rights gave them a formidable power. These problems, however, formed only part of the dilemma of the leaseback arrangement. According to Schmitt, the handling of customer complaints was unduly complicated by the leaseback arrangement.

Schmitt suggested the following example of what could (and did) go wrong during the operation of Lakewood CATV. A customer would call Lakewood CATV to report that the cable television service to his or her home was malfunctioning. Provided that the call was made during regular office hours, the secretary immediately contacted the general manager; during off-hours complaints were recorded on a automated phone answering machine and played back each morning. The general manager contacted Ohio Bell, which then contacted its area supervisor. The area supervisor next called on the chief technician, who assembled a crew, which was dispatched to the complainant's home. If the malfunction was linked to the drop from the pole to the house, it was corrected on the spot. However, if the drop was properly functioning, the crew returned and told the chief technician, who set the process in reverse motion back up his chain of command and down, eventually, to the



secretary at Lakewood CATV. She then contacted the cable service's crew, which was dispatched to the complainant's home, where the connection from the drop to the television set was checked. Usually the problem was found and corrected by the crew (otherwise Ohio Bell got another call). The end result of this process was a situation in which it often took one to two days of delays before complaints on service were given thorough attention. Schmitt termed this lengthy processing of complaints a "serious problem."<sup>77</sup>

Certainly, the complicated way in which service calls were made to complaining subscribers hurt Lakewood CATV's business. No one wants to pay \$5 per month for a service which does not guarantee prompt repair when something goes wrong. Had the financial aspect of the leaseback problem been altered by a greater number of subscribers, this slow way of answering complaints would have still given the leaseback arrangement a bad reputation with Lakewood CATV. Either way, the arrangement with Ohio Bell was very injurious to the probability of cable TV's success in Lakewood.

The eighth overall reason for the failure of the Lakewood venture was the discontinuity of TV-6 daily programming. In its attempt to cut costs by repeating all live and taped shows at least once, Lakewood CATV managed

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<sup>77</sup>Robert Schmitt, op. cit.

to create a channel which no one could comfortably turn on and leave on. One of the basic common sense rules of television programming is that programs should each lead into the next in some way, if only by keeping the quality consistent. The way to build an audience for evening programs is not to precede those programs with 75 minutes of five identical 15-minute news programs. Like the other origination channels (weather scanner, news wire, etc.), TV-6 appears to have been programmed as a service to tune in, then tune out. The problem with such a method of programming is that once a channel is set by an individual televiewer, the selection is maintained, especially if the programming is good. TV-6 was, in this way, very easy to tune out, but difficult to tune in. Of course, TV-6 had no advertising-related reason for building an audience; however, without a consistent audience, TV-6 could never hope to become well-known in a community of potential subscribers.

Another reason for TV-6's failure (a failure which ushered in the failure of the entire system) was the lack of planning given to the idea of local program origination. The original proposal for cable service to Lakewood, as mentioned earlier, did not even hint at the idea of cable-casting community-minded programming. But, when the FCC effectively stopped any plans for either microwave or distant signal importation, the organizers of Lakewood CATV

decided, on criteria which are not clear, to give local program origination a try in a major market. This decision was undoubtedly followed up by very professional work in the planning of TV-6, despite the fact that TV-6 was to be the first of its kind. And yet, the very last-minute nature of the planning must have detracted from what success might have been possible had the origination idea been conceived from the beginning. Perhaps if Lakewood CATV had began its planning of TV-6 earlier, if it had more slowly checked the collective community-spirit pulse than it did, it might not have even tried to start a cable system entirely dependent on its local program origination.

The tenth reason for the failure, and one which is closely connected to the ninth reason, is that Lakewood CATV did not seem to have enough "heart" in the success of the local program origination. The cablecasting experiment, which could have succeeded, was viewed as just a device of desperation to stay in business until the FCC permitted the company to import signals from Canada, ones just outside the Grade B contours. The promotion of the localized service was just that: advertising to attract a viable number of subscribers. The real promotion was in the veiled promises in the press releases and advertisements that more service (i.e., distant signals) was hopefully on its way to Lakewood via cable television. It was at the same time in which these great hopes for something

better than the better-than-nothing public affairs programming were dashed, in fact, that Lakewood CATV decided to give up "temporarily." Cox Cablevision was immersed in crucial problems in Toledo, where the FCC, told Buckeye Cablevision that, because of complaints from the local UHF station, it would not be able to carry Detroit-Windsor signals even though the signals were not "distant signals";<sup>78</sup> if Cox was losing its rights to carry market signals in Toledo, it must have suddenly lost hope of getting permission to carry non-market signals in Lakewood. Meanwhile, back in the executive suites in Atlanta, Cox prexy J. Leonard Reinsch was planning to go public with Cox Cablevision and probably wondering what to tell prospective stockholders about a Cox system in Lakewood losing its shirt, not to mention the problems in Toledo. It is a small wonder indeed that the decision was made to "temporarily" shut down Lakewood CATV.

The ten reasons listed above accurately account for the failure of the Lakewood cable television efforts of 1967 and 1968. The major reason, the one most often cited by anyone connected with CATV, Incorporated, was the FCC's Second Report and Order. In light of the reasons for

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<sup>78</sup>15 FCC2d 1030. The severity of this decision might be linked to the previous unhappiness on the part of the FCC with Buckeye Cablevision's open violation of the distant signal importation limitations. See supra, note 47.

choosing Lakewood for a cable TV venture, presented earlier in the paper, reasons two and six of the list of reasons for the failure are the most ironic in that two of the very items on which Lakewood CATV's organizers had counted proved to be elusive. The leaseback problem certainly ranks second to the Second Report and Order as a chief cause of the financial burdens of Lakewood CATV. The importance of the success of TV-6, moreover, cannot be over estimated.

Although it may be said by some that the lack of advertising on TV-6 might have played a role in the financial burdens, there is no indication that Lakewood CATV would have done much better with it than it did without it. The key to success in cable television is the number of subscribers; any other sources of income are so much "gravy."

Lakewood CATV simply could not attract enough subscribers to pay its bills, and therefore failed. One may casually assign all the guilt to the FCC for placing an "inherent restraint" on top-100 markets in its Second Report and Order. Another person may blame the poor condition of the local programs origination, albeit local program origination under strange conditions. Certainly, however, it was a mixture of both of these elements, the restrictive regulations and the shoddy planning of TV-6, which brought forth the failure of CATV, Incorporated's venture in Lakewood.

In a greater sense, the failure of Lakewood speaks of the times in which the event took place. The years 1964 and 1965 were in reality the highpoint of the success of innovation in the television industry. Those who entered the cable business in time reaped handsome profits, for the most part, and those who received distant signals for the first time were the beneficiaries of a great public service. The years between 1966 and 1972 represent a stagnation of television's new development--cable television. Those who entered the cable business in those years, like Lakewood CATV, did not do as well as the "grandfathered" systems. Moreover, there is nothing magical about the year 1972; perhaps the stagnation will remain for years to come in the cable industry, or in any other innovative broadcasting industry for that matter.

There is no way of calculating the number of cable outlets which did not try to start CATV systems in the top-100 markets, because of restrictive regulations. All that can be known of the possibility of operating a cable system in the top-100 markets, on a scheme of attracting subscribers by offering local program origination, lies in the above case study of Lakewood CATV. No other system tried to do what Lakewood CATV bravely, perhaps foolishly, tried to do. The extenuating circumstances have been laid bare in the preceding discussion of the cable television failure in Lakewood.

It must be remembered that the above reasons for the failure of Lakewood CATV were derived by taking the factual conditions at face value. Perhaps, Lakewood CATV failed only because there was a lack of interest on the part of CATV, Incorporated (there is really no way of knowing for sure, given the lack of cooperation by the owners of CATV, Incorporated). Perhaps The Plain Dealer, which presumably knew that newspaper-owned cable television systems were supposed to receive at least a 12 per cent return on investment,<sup>79</sup> lost interest in its unsuccessful pioneering experiment in cablecasting with Cox Cablevision and decided not to lose another cent in the unprofitable Lakewood system. In fact, the decision to suspend operations was facilitated by the fact that the cable trunk in Lakewood did not belong to CATV, Incorporated, but instead to the telephone company; this may have been the only benefit of the leaseback arrangement with Ohio Bell. Unfortunately, neither owner of CATV, Incorporated will say whose decision it was to close down Lakewood CATV. The possibility of either Cox Cablevision or The Plain Dealer having merely lost interest in Lakewood CATV before the system had a chance to meet its potential, however, is only speculative. There exist too many gaps in the available information to state with any certainty that the above counter-

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<sup>79</sup>"CATV investment given cautious recommendation," Editor and Publisher, May 22, 1965, p. 9.

explanation of the Lakewood CATV failure is a better reason than those ten reasons given earlier.

Based on all the available information, which is described in this thesis, there are two final conclusions which can be made in relation to the Lakewood cable television system. These two conclusions are concerned with the following questions:

1. Should the Lakewood system have ever started; that is, was it possible for local program origination to succeed in a market where distant signal importation was prohibited?
2. Given that the Lakewood system was begun, should it have been discontinued, as it was, after a year and a half of unprofitable operation?

The answers to these questions are based not on what was known in the years 1965 through 1968, but on what is now known about the Lakewood system.

First, the Lakewood system was feasible with no signal importation. This conclusion is in opposition to that of N. E. Feldman, who stated in his chapter on the Lakewood system that local program origination simply could not attract subscribers in Lakewood. The reasons for the conclusion that local program origination was feasible are varied, and many have been presented earlier. Clearly, the nine reasons for the failure of TV-6 were not necessary. There was little that CATV, Incorporated could have done about the Second Report and Order's impact on distant signal importation in the top-100 television markets. But



the success of TV-6 was not automatically doomed by external conditions. It could have worked.

Second, the Lakewood system should have continued operations at a loss; CATV, Incorporated was not losing so much money at the time of the "temporary suspension" of services that could not have been absorbed by other income sources of the parent companies. CATV, Incorporated for a myriad of reasons decided that it had made a mistake by trying to attract subscribers with local program origination alone, but it had not. If only it had waited a couple or three more years, the system could have been successful.

APPENDIX

AS AMENDED  
Meeting February 7, 1966

ORDINANCE NO. 6-66 BY: Messrs. Usher, Ward,  
Wendling, Cain,  
Huffman, Kelley.

AN ORDINANCE granting to Cleveland Area TV, Inc., an Ohio corporation, the non-exclusive right to erect, maintain, and operate in, under, above, along, across, and upon the streets, lanes, avenues, sidewalks, alleys, bridges, and highways, and other public places in the City of Lakewood, Ohio, and subsequent additions thereto, for the purpose of transmission and distribution of television signals to enable sale of their service to the inhabitants of said City, and other purposes, for a period of twenty (20) years, and regulating the same.

WHEREAS, An application has been received from Cleveland Area TV, Inc., an Ohio corporation, for permission to engage in a community antenna television system in the City of Lakewood, and,

WHEREAS, Said applicant must, of necessity, use the streets and highways of the City of Lakewood for the purpose of installing their systems, and,

WHEREAS, It is necessary that some regulation over said installation be promulgated, now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAKEWOOD,  
STATE OF OHIO:

Section 1. In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, the non-exclusive right is hereby granted to Cleveland Area TV, Inc., a corporation organized under the laws of the State of Ohio, its successors or assigns (hereinafter referred to as "The Company"), to erect, maintain, operate and utilize television transmission and distribution facilities, and additions thereto in, under, above, along, across, and upon the streets, lanes, avenues, sidewalks, alleys, bridges and other public places in the City of Lakewood and subsequent additions thereto, for the purpose of transmission and distribution of audio and visual impulses and television energy in accordance with the laws and regulations of the United States of America and the State of Ohio, and the ordinances and regulations of the City of Lakewood, for a period of twenty (20) years, but the Company shall not originate or produce any program, signal, message or advertisement to be transmitted and distributed over or through its system of wires or facilities in the City, except such as may be approved by the Council of the City.

Section 2. Wherever used in this ordinance, the word "Television" shall mean a system for transmission of audio signals and/or visual images or any other type of closed circuit transmission and/or signal transmission by means of electrical impulses.

Section 3. It is contemplated that the Company will make arrangements with the Ohio Bell Telephone Company, The Cleveland Electric Illuminating Company, or any other holder of licenses or franchises from the City for the purpose of using the towers, poles, and attachments thereto of said companies for the attachment of television transmission and distribution facilities, subject to all existing and future ordinances of the City.

Section 4. The Company will not erect a separate system of poles in the City or on any street therein, but may erect poles where shown to be necessary when the necessity, the location, and the style of poles have been approved by the Director

of Public Works and the Mayor of the City, which approval will not be unreasonably withheld. The erection of poles shall be subject to all existing and future ordinances and regulations of the City applicable thereto and under the supervision of the Director of Public Works.

The Company's transmission and distribution system, poles, wires, and appurtenances shall be located, erected, and maintained so as not to endanger or interfere with the lives of persons, or to interfere with improvements the City may deem proper to make, or to hinder unnecessarily or obstruct the free use of the streets, alleys, bridges or other public property. Removal of poles or equipment when necessary to avoid such interference will be at the Company's expense.

Construction and maintenance of the transmission distribution system shall be in accordance with the provisions of the National Electrical Safety Code of the National Board of Fire Underwriters, and such applicable ordinances and regulations of the City of Lakewood, affecting electrical installations, which may be presently in effect, or changed by future ordinances.

All installations of equipment shall be of permanent nature, durable, and installed in accordance with good engineering practice, and of sufficient height to comply with all existing City regulations, ordinances, and state laws so as not to interfere in any manner with the right of the public or individual property owners, and shall not interfere unduly with the travel and use of public places by the public during the construction, repair, or removal thereof and shall not unduly obstruct or impede traffic.

In the event that at any time during the period of this franchise the City shall elect to alter or change the grade of any street or other public way, or to make any other improvements which the City may deem proper to make, the Company upon reasonable notice by the City shall remove, relay and relocate its poles, wires, cables, conduits and other fixtures at its own expense. The Company shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, unless the building is being moved by the City or the Board of Education. The Company shall be given not less than 48 hours advance notice to arrange for such temporary wire changes.

Section 5. In the maintenance and operation of its television transmission and distribution system in the streets, alleys, and other public places, and in the course of any new construction or addition to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places made by the Company in the course of its operations shall be in accordance with the ordinances and regulations governing the making of openings in streets, sidewalks, public ways or places of the City of Lakewood, Ohio, as established by the Council and the Department of Public Works of said City and which are in effect at that time.

Section 6. The Company shall indemnify and hold the City harmless from and against all claims, demands, actions, causes of action, costs, expenses, loss or damage incurred by or asserted against the City, directly or indirectly, arising out of

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or connectd with the operations of the Company within the City, or the exercise of any rights granted herein. The Company shall carry insurance, to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses and liabilities, which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The amounts of such insurance against liability due to physical damages to property shall not be less than One Hundred Thousand Dollars (\$100,000.00) as to any one accident and not less than Two Hundred Thousand Dollars (\$200,000.00) aggregate in any single policy year; and against liability due to bodily injury or to death of persons not less than One Hundred Thousand Dollars (\$100,000.00) as to any one person and no less than Three Hundred Thousand Dollars (\$300,000.00) as to any one accident. The Company shall also carry such insurance as it deems necessary to protect it from all claims under the Workmen Compensation Laws in effect that may be applicable to the Company. All insurance required by this Agreement shall be and remain in full force and effect for the entire life of this ordinance. Said policy or policies of insurance or a certified copy or copies thereof shall be approved by the Director of Law of said City and be deposited with and kept on file in the office of said Director.

Section 7. At the time this franchise becomes effective, the Company shall furnish a bond to the City in the amount of Ten Thousand Dollars (\$10,000.00), in such form and with such sureties as shall be acceptable to the Director of Law of the City, guaranteeing the faithful performance of all the obligations of the Company under the terms of this franchise.

The Company's performance of its obligations under this franchise shall be conditioned upon the Company's receiving such licenses and/or grants as may be necessary to the performance of this ordinance, from duly constituted agencies of the Federal government or the State of Ohio, which licenses and/or grants the Company agrees to apply for immediately upon its acceptance of this ordinance.

Section 8. Installation, operation and maintenance shall be such that no interference is caused to existing communications systems and so as not to distort or interfere with direct-off-the-air television signals. If there is any interference, which is not eliminated within seven days after notice by the City, Council may, after twenty day's notice, revoke the franchise herein granted.

Section 9. When this franchise takes effect, the Company shall have authority to charge and collect the schedule of installation charges and rates contained in this section, unless and until same shall be increased; provided, however, that no increase of charges or rates shall be made until approved by the Council of the City.

All fees and charges are exclusive of any tax or taxes whatsoever assessed or assessable against the scheduled installations and/or services.

The scheduled attachment fees shall include that material and labor necessary to make a normal-type connection from the Company's lines to the subscriber's receiver. Charges for other than normal-type connections, such as but not limited to special and concealed outlets and buried lines, shall be as agreed to between the prospective subscribers and the Company.

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- (a) Charge for initial attachment for single outlet shall be at the maximum rate of \$25.00 each. Charge for extensions from initial attachment shall be at the maximum rate of \$5.00 each. Extensions shall be limited to the commercial structure and/or dwelling residence unit to be serviced by the initial attachment.
- (b) Charge for transmission to single set receiving signals initial attachment shall be at the maximum rate of \$5.90 per month.
- (c) Charge for transmission to each set receiving signals on extension or extensions from initial attachment shall be at the rate of \$1.00 per set per month.

If for any reason, through Federal regulation or otherwise and for reasons within or beyond the control of the Company, said Company shall cease to furnish its services to its subscribers, the original installation fee shall be refunded, at a pro-rata basis, to all subscribers who have had the benefit of said service for less than one (1) year, each such subscriber to receive a refund of one-twelfth of said installation fee for each month, or portion thereof, in which the subscriber is not furnished said service by the company.

The Company shall have the right to make all rules and regulations governing its services providing same are uniform and not inconsistent with the terms hereof.

Section 10. The Company agrees to pay to the City a percentage of the gross receipts from the charges paid by the residents of the City as set forth in paragraphs (b) and (c) of Section 9, as follows:

Three per cent (3%) of the gross receipts received from the first 8,000 dwelling units within the City.

Five per cent (5%) of the gross receipts received from the next 4,000 dwelling units within the City.

Eight per cent (8%) of the gross receipts received from the number of dwelling units within the City over 12,000.

Notwithstanding the provisions contained herein for payment of an annual fee to the City, if the Council of the City determines that any rate or schedule of fees which the Company is obligated to pay to any other municipality of the same size or larger within Cuyahoga County, Ohio, is more favorable than the rate of schedule of fees provided for herein, then the City may require and the Company shall pay fees to the City in accordance with such more favorable rate or schedule. Such revised rate or schedule shall be applicable to revenue received by the Company on and after the first day of the month following receipt of written notice by the Company of such determination by the Council.

The fee paid to the City shall be calculated on a calendar year basis and payment shall be made for each calendar year within sixty (60) days following the end of such year, and shall be accompanied by a statement of service revenue received

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by the Company from subscribers located within the City during such year; the statement to be certified as to correctness by independent, certified public accountants. The relevant records of the Company shall be open to inspection by the City's representative for a period of six months following the delivery of the Company's annual statement.

Section 11. All of the terms, conditions, and provisions of the Charter of the City of Lakewood as it now exists, relating to franchise and applicable hereto shall be considered a part of this ordinance the same as if such terms, conditions, and provisions were fully written herein.

Section 12. If any section, sentence, clause or phrase of the ordinance is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of the ordinance, and any portions in conflict are hereby repealed.

Section 13. The Company agrees that it will immediately upon the passage of this ordinance, proceed to complete the engineering for the proposed television cable service and negotiate those pole line contracts required for said installation and complete and meet all rulings established by any other Governmental Agency.

The Company agrees to make the service provided for herein available to subscribers within one year of the effective date of this ordinance, and if the Company fails to provide such service within such period, excepting for causes beyond its control, the Council of the City may revoke the franchise herein authorized after ninety (90) days written notice to the Company.

Section 14. The Company shall remove all equipment, installations and facilities herein authorized and shall restore all public property for public use in as good condition as the abutting portions thereof at the Company's own cost and expense within ninety (90) days after the expiration of termination or revocation of this franchise.

Section 15. The rights and privileges herein granted shall not be assignable or transferable in any bankruptcy proceedings, trusteeship, receivership, or by operation of any law, in any of which events this franchise shall terminate forthwith, nor shall said Company sell, lease, assign or otherwise alienate this franchise or any privilege hereunder without the prior approval of Council and subject to such terms and conditions as Council may provide.

Section 16. Within thirty (30) days from the date of this ordinance taking effect, the Company shall file with the Clerk of the City Council, its written acceptance thereof; thereupon this ordinance shall be a contract between the City and the Company and be binding on both.

Section 17. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Adopted: Feb. 7 1966

Charles A. Holloman, Jr.  
President

Approved: Feb. 9 1966  
Robert M. Lawrence  
Mayor

Mary Adams  
Clerk

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