Testimony of

Gene Kimmelman
Vice President, Federal and International Affairs
Consumers Union

on behalf of

Consumers Union
Consumer Federation of America
Free Press

before the

United States Senate
Committee on Commerce, Science and Transportation

regarding

Video Franchising

January 31, 2006

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SUMMARY

Consumers Union,[1] Consumer Federation of America,[2] and Free Press[3] appreciate the opportunity to testify on the issue of video franchising and competition in video services. We welcome the Committee's interest in fostering greater consumer choice by promoting competition in the video marketplace. Over the last decade, consumers have suffered under monopolistic cable pricing that has resulted in a 64 percent increase in rates—approximately two and a half times the rate of inflation—since Congress deregulated the cable industry in the 1996 Telecommunications Act. In addition to skyrocketing rates, consumers have virtually no choice of providers or channel offerings. Satellite television, the primary competitor to cable, has had virtually no price disciplining effect.

The application of broadband technologies to subscription video services now offers the promise of competition and lower monthly cable bills. The central question before Congress is how best to accelerate this new competition while maintaining a strong commitment to local community needs, and universal availability of access as a condition of video franchising. The public policy goal must be to maximize, as rapidly as possible, the benefits of new technologies and competitive markets to every American household.

Is the local franchising process a barrier for local telephone companies' entry into local video markets? Do we need a federal franchise? That is not at all clear. We urge the Committee to weigh the evidence in this debate—rather than the rhetoric—very carefully. The focus of any new policy must be primarily the conditions of local service in the video franchise and secondarily the process that can best achieve them. Before considering the idea of a federal franchise, Congress must clarify precisely what local needs must be met and how to best protect legitimate local concerns.

The establishment of a national franchising mechanism would bring with it substantial risks for local communities and consumers against which any real or perceived competitive benefits must be balanced. The existing local franchise negotiating process may merely delay, rather than impede, new entrants. The balance between facilitating competition and preserving community services may be achieved through a streamlined national franchising process *or* a streamlined local franchising process. The key component in either scheme must be the retention of substantive consumer protections and community obligations that local franchising authorities

up to now have been able to negotiate. To maximize consumer benefits, Congress should address the *process* of franchising to provide for greater certainty and timely entry of new competitors, but it must maintain consumer protections and preserve the carrier obligations to ensure that all residents benefit from new competition.

Unfortunately, national franchising proposals introduced to date do not strike that balance. Instead they provide a franchise exemption, retaining only minimal protections and requirements and providing equivalency with only some of the obligations of incumbent providers. Notably absent from these proposals is any requirement that new entrants provide their services to the entire franchise area, opening a wide door to economic and ethnic discrimination ("redlining") and closing the door to rate relief for those families who most need it and who have largely been left on the wrong side of the digital divide.

Should Congress move forward to address video franchising issues, we respectfully urge you to maintain the substantive protections and providers' obligations to the local community regardless of where the power to offer the franchise is located. Any franchising model must include strong protections for consumers and communities that include:

- Requirements to provide service to all customers within the entire local franchising area, or in lieu thereof, requirements that new entrants provide significant financial resources to the locality to improve access to affordable broadband technologies for those not served;
- Requirements that consumer protection be provided locally to ensure that customers service and billing complaints are quickly and satisfactorily resolved;
- Complete protection of the locality's right to manage and be fairly compensated for use of the public rights-of-way;
- Minimum requirements to ensure providers are truly supporting local needs, including the provision of both capacity and resources for local access channels with independent programming that reflects the diversity of the community, and broadband networks serving schools, libraries, hospitals and governmental facilities (I-Nets).

In addition, it is essential that localities retain their right, subject to local democratic processes, to provide broadband communications services. Ironically, the Bell companies who demand new regulations to facilitate their competitive entrance into the video market seek to foreclose competition in broadband from local governments and their private sector partners. A federal elimination of state limitations on local community broadband networks would end the practice of constraining local choices and the rights of localities. However, a policy permitting community broadband is not sufficient to address redlining concerns. Simply giving permission to localities to establish a broadband network does little to help low-income and rural communities provide service to underserved residents when those communities have few resources to do so. The inequities of redlining can only be redressed through universal build-out of like services. In the absence of requirements to provide service to the entire franchise area, providers must also be obligated to provide financial resources to allow communities to meet the communications needs of the underserved through community broadband networks.

Even with protective and uniform national standards and a streamlined franchising process, in order for true price competition to emerge in multichannel video markets, Congress must address anti-consumer bundling and anti-competitive tying requirements imposed by dominant media companies. Programming bundles serve the interests of the dominant broadcast networks and cable operators that own the lion's share of cable programming. They impose these bundles upon their subscribers and smaller distributors in the all-or-nothing expanded basic tier. If Congress does not prohibit these bundling arrangements and the coercive retransmission consent negotiations that often accompany them, new video entrants will have limited ability to compete with existing cable companies on both price and selection through greater channel choice and more diverse programming.

Finally, in an era of technology convergence, it is essential that Congress enact strong, enforceable prohibitions on broadband network discrimination. The appearance of integrated video and broadband services, like franchised video over the Internet (IPTV), must not distract us from this fundamental point. The build-out of fiber optic IPTV networks will naturally involve costs for the new operators. There will be a temptation to recover these costs by precluding subscriber access to competitive video and broadband service offerings that consumers can only reach over the same line that brings them IPTV. As Congress considers easing the entrance of the Bell companies into video service, it must include strong, enforceable network neutrality policies required to protect consumers and preserve the Internet as a source of innovation and competition. Consumers, not network operators, should determine winners and losers in the online marketplace.

CONCENTRATED VIDEO MARKETS HAVE RESULTED IN SKYROCKETING CABLE BILLS

The last decade has brought a dramatic increase in concentration and clustering of video systems. Mergers have been executed between the first, third and fourth largest companies, creating a single giant that towers over the industry, almost twice as large as the second largest cable operator. Regional markets have been drawn into huge clusters of systems. In a pending merger, the top two cable operators propose to devour the number seven cable company and sharply increase their control over regional markets. This regional clustering has increased sharply since 1994, when less than one-third of cable subscribers were in clusters.[4] Today, the figure is over 80 percent.[5] Cable systems that are part of a larger national cable operator charge prices that are more than five percent higher than those of unaffiliated, independent distributors. [6]

And while cable mergers abound, competition between cable systems is almost nonexistent; head-to-head competition is moribund.[7] Out of more than 3,000 cable systems, head-to-head competition exists in fewer than 200. In short, only about one percent of franchise territories have experienced head-to-head competition between cable companies. The failure of competition in multichannel video is most evident in local markets. Although facilities-based competitors target larger urban areas, 98 percent of the homes passed by cable companies have a choice of just one facilities- based provider.[8]

Competition from satellite television is weak as well. Cable's dominance as the multichannel medium is overwhelming, with a subscribership of approximately two-thirds of all TV households. Its penetration is about three times as high as satellite. Because a large number of satellite subscribers live in areas that are not served by cable, competition in geographic markets is even less vigorous than the national totals suggest. Cable has about four times the market share of satellite in areas where both are available. The Government Accountability

Office has found that satellite television penetration, even with the addition of broadcast stations, has little or no impact on consumers' monthly cable bills.[9]

Consolidation in both distribution and programming has resulted in cable prices that have risen by more than 64 percent in the last ten years—approximately two and half times the rate of inflation as measured by the Consumer Price Index.[10] (Attachment 1) Last month, consumers across the country were treated to notices that their cable bills would be rising yet again. Cable rates went up by 7 percent in Seattle, Washington and Hartford Connecticut; by nearly 8 percent in Portsmouth, New Hampshire and St. Louis, Missouri; and by almost 9 percent in Deptford, New Jersey. (Attachment 2)

ENSURING ALL SUBSCRIBERS ENJOY THE BENEFITS OF COMPETITION

In the few areas where actual facilities based competition exists, consumers enjoy cable prices that are 15 percent lower than non-competitive markets.[11] This suggests that the entrance of the Bell operating companies into video distribution offers the promise of lower prices. But one of the great disappointments of the 1996 Telecommunications Act has been the failure of competition from alternative technologies to break down the market power of the incumbents. This track record urges skepticism about promises about future technologies that are "just around the corner," which will break the grip of the cable monopoly.

Skepticism is particularly warranted given statements made last year by then-SBC that it would roll out Project Lightspeed, the company's IPTV video offering, to 90 percent of its high-value customers—those willing to spend up to $200 on communications services per month. These high-value customers make up just 25 percent of its subscriber base. SBC also contended it would provide the video service to just 5 percent of low value customers that constitute 35 percent of its customer base.[12] Assurances that "low-value customers" would still be able to receive satellite video through SBC's affiliation with Dish Network ring hollow, given the failure of satellite to provide meaningful price discipline. Instead, SBC's statements suggest that it might seek to offer services only in largely affluent franchise areas, disregarding franchise areas that are made up of lower or middle income communities.

Anecdotal evidence suggests that Verizon is seeking franchise agreements and its FiOS service roll out in some of the wealthiest counties in the country. For example, Verizon has negotiated or signed franchise agreements to date with largely affluent local franchise areas—such as in Fairfax County, Va. (where it has four franchise agreements in place for Herndon, Fairfax County, Fairfax City and Falls Church); Howard County, Md.; Massepequa Park in Nassau County, N.Y.; Nyack and South Nyack, in Rockland County, N.Y.; and Woburn in Middlesex County, Mass. In terms of median family income, Fairfax County ranks number one nationally; Howard ranks fourth; Nassau 10th; Rockland 12th and Middlesex 17th.[13] New Jersey, in which Verizon is seeking a statewide franchise but resisting state-wide build-out requirements, is home to 12 of the top 100 richest counties in the nation in terms of median family income.

SBC's lightly veiled admission of economic redlining and Verizon's video franchising efforts to date raise two questions: First, will the new entrants enter only largely affluent franchise areas of the country that are densely populated? Second, if they enter mixed income franchise areas (those with both high and low income populations) will they build out service to all parts of the franchise area—even into rural segments? Verizon has committed to universal or nearly universal build-out in several of its franchise agreements. However, given the wealth of those areas, it reveals little as to whether the company will voluntarily build-out to all parts of a mixed-income franchise area, assuming it ever enters them. However, what those commitments do show is both that build-out has been important to those localities and that it need not be a barrier to the company's entry. On the contrary, Verizon has quickly negotiated agreements that offer substantial community services and consumer protections.

Many of these agreements provide for universal or near universal build-out to the entire franchise area, franchise fees upward of eight percent, requirements that customer service remain local, compliance with customer service standards and regular submission of reports on customer complaints and service outages, support for institutional networks, up to 19 public, educational and governmental channels with resources supporting them, and franchise revocation provisions for material violations of the agreement.

These agreements, and the dozens more that Verizon is pursuing, also suggest that neither build-out nor the local franchising process need be a barrier to entry. AT&T's failure to secure franchise agreements is not the result of the process; it is self imposed. The company has refused to concede that The 1934 Communications Act Title VI franchise requirements apply to its service and has even filed suit against counties seeking franchise agreements prior to service roll out.[14] Rather than seek entry to markets, it has opted to delay pending national and state exemptions from franchising requirements and the resolution by the courts.

If Congress seeks to streamline the franchising process nationally in order to speed entry, it must maintain the consumer protections and community obligations that local franchising authorities are currently empowered to negotiate, establishing national protective requirements and obligations that apply to all franchise areas entered.

The most important of these protections are requirements for universal build-out to all residents within franchise areas. Considering how important build-out requirements have been in preventing redlining in cable service and their prominence in Bell video franchise negotiations to date, it is essential that Congress impose a comparable requirement nationally should it opt for a national franchising approach to Bell video service. It is the only way to ensure that those families who most need cable rate relief will get it.

Anti-redlining provisions, comparable to those in Title VI of the 1934 Communications Act, on their own will be not be sufficient to ensure that low-income areas are not excluded from any competitive benefits that Bell entry may bring. Title VI anti-redlining provisions have only been effective because they exist *in tandem* with the ability of local franchise authorities to require service throughout the franchise area over time. Without the ability to require service to the entire area, anti-redlining provisions are toothless.

In the absence of national build-out requirements, Congress should require new entrants to provide sufficient financial resources to local communities, in addition to reasonable rights-of-way fees paid, for use in fostering alternative means of ensuring broadband competition and service to the entire community. Those resources could be used to establish community broadband networks, competitive commercial services to areas underserved by the new entrant, or other means of assistance to help low-income consumers access advanced telecommunications services at affordable prices and meet local community communications needs. In addition, such resources should be provided up-front, or on an ongoing basis to facilitate the community's efforts to meet the needs of the underserved. That is, under no circumstances should national franchising take a wait-and-see approach to build-out. If it is not mandated, then communities must have both the right and the resources available immediately to begin efforts to serve low-income residents. Given AT&T's statements and Verizon's franchising behavior, a "trust us" approach is unacceptable. Each provider must also be subject to reporting requirements that detail where service is being provided in the franchise area and to how many households. Without adequate data, there can be no enforceable assessment of discrimination.

Additionally, Congress must prohibit preemption of community broadband projects. At the same time as Verizon and AT&T tout the benefits of competition in cable, they are aggressively trying to foreclose it in broadband by seeking state preemption of community broadband projects that promise to bring a third competitor into some markets. Cable and DSL providers control almost 98 percent of the residential and small-business broadband market. And since there are no "open access" requirements for telephone and cable companies to lease their broadband lines, the only opportunities for true competition in broadband are new broadband providers using their own lines or facilities. Community broadband service may be one of the few remaining opportunities for a third competitor in high-speed Internet over which all media -- TV, telephone, radio and the Web -- will eventually be delivered. Where the Bells fail to offer high-speed Internet and Internet-based video services, it is essential that communities be able to step in and fill that gap. Even where service is provided, the potential threat of a third provider can help discipline prices.

LOWERING COSTS TO SUBSCRIBERS

Because the presence of actual facilities-based, video providers has lowered prices in markets where competition exists, there is reason to believe that a comparable effect will be experienced when the Bells enter previously monopoly markets. But Congress should be skeptical that a national franchise for Bell entrants will necessarily reduce prices for an entire franchise area when the new entrant offers service to just part of it. Dominant cable providers are exempt from the statutory requirement for a uniform rate structure throughout the franchise area when a competitor offers service to just half of that area and when at least 15 percent of those offered the competitive service actually subscribe to it. That provides the opportunity for the incumbent cable provider to lower rates where competitive services are offered and raise them in unserved areas. Underserved consumers would then be hit twice—they will not have the benefit of a second choice for video subscription services and they may be faced with higher cable rates.

MEETING COMMUNITY NEEDS

In addition to nationally imposed build-out requirements or, in lieu of those requirements, significant financial resources for communities to offer their own broadband services, any national approach to franchising must retain, at a minimum, provider obligations to serve local communities by requiring national obligations for:

- **Institutional Networks:** Title VI of the Communications Act of 1934 provides for local government requirements that schools, libraries and government buildings be connected through the cable network by allowing for the creation of institutional networks (I-Nets). Any national franchise should provide either financial resources or provider obligations to provide for I-Nets.

- **Local, Independent and Diverse Programming**: Title VI also provides that franchising authorities may "assure that cable systems are responsive to the needs and interests of the local community" including Public, Education and Government (PEG) access channels. Any national franchise should provide comparable provisions to ensure that community needs are met and to provide for both capacity and resources for PEG channels.

- **Local Consumer Protection**: Title VI authorizes franchise authorities to establish consumer protections and technical qualifications to ensure that consumers get the service they are promised. These local consumer protections must be retained in any national approach. Consumers must have a means for timely and local resolution of complaints against their service providers. Federalizing consumer protection is neither workable nor acceptable. The Federal Communications Commission is ill-equipped to address billing, services and outages complaints. Customer service, the process for resolving complaints, reporting requirements and accountability of providers to officials must remain local, with appropriate and meaningful sanctions for violations.

- **Local Control over Rights of Way and Appropriate Compensation for Their Use:** It is essential that localities retain full control over management of their rights of way. Note that Verizon has already negotiated agreements with many localities for a five percent franchise fee plus additional contributions for community needs. If a national franchising process is to replace local control, it is essential to ensure that national minimums are placed both on the franchise fee and additional resources to meet community needs.

TRUE COMPETITION REQUIRES PROHIBITION ON PROGRAMMER TYING ARRANGEMENTS

In order for true price competition to emerge in multichannel video markets, Congress must address anticompetitive tying requirements imposed by dominant media companies.

At the same time that the cable distribution market has consolidated, concentration in video programming has increased dramatically. Broadcast giants and cable programmers have merged; broadcast and satellite distributors have merged; and cable distributors increasingly offer their own programming or have gained ownership stake in other video programmers. The anticompetitive effects of concentration in video programming decreases the likelihood that new Bell video market entrants will be able to effectively compete on price and on channel offerings.

Program carriage contracts typically stipulate that distributors offer several or all of the programmer's channels in the most widely viewed tier (usually the expanded basic tier), regardless of consumer demand for them, and prohibit channels from being offered to consumers individually. These bundling requirements have contributed to increased size and price of the expanded basic tier, which has increased in cost by two and a half times compared to the basic tier.[15] Consumers are forced to pay more for channels that they don't watch, just to get the few channels that they do want.

Media companies can secure these commitments because of their market power. Six media giants, including the top four broadcasters, dominate the programming landscape, accounting for three-fourths of the channels that dominate prime time.[16] Four are networks (ABC, CBS, FOX and NBC) and two are cable operators (Time Warner and Comcast). The networks use the retransmission consent negotiations for carriage of the local stations they own and operate to leverage local cable carriage of their other channels. These six companies also completely dominate the expanded basic tiers and the realm of networks that have achieved substantial cable carriage. These six entities account for almost 80 percent of the more than 90 cable networks with carriage above the 20 million subscriber mark.

Moreover, cable operators are majority owners of one-fifth of the top 90 national networks--a substantial stake in the programming market.[17] They also own minority stakes in other networks, as well. The Government Accountability Office found that vertically integrated distributors or those affiliated with media companies are more likely to carry their own programming, [18] contributing to the size and cost of the expanded basic tier. These vertically integrated networks continue to have the largest number of subscribers,[19] and are the most popular.[20] Program ownership by dominant incumbent cable distributors also provides the incentive to withhold carriage of cable networks they own from competitive video distributors through use of the "terrestrial" loophole in current law.

Independent, unaffiliated cable distributors that do not own their own programming have consistently expressed concerns about exclusionary tactics, contractual bundling requirements, and coercive retransmission consent negotiations that limit their ability to respond to customer demand for more choice in program packages and for lower prices.[21]

Regardless of the outcome of video franchising, if Congress wishes to promote video competition, it must address and prohibit anticompetitive and coercive contractual requirements for program bundling. Failure to do so will impede the ability of any new video market entrant, including Verizon and AT&T, to compete on price. They'll be forced to buy the same channels their competitor is carrying and to pay the same or greater licensing fees. Worse, they will be precluded from offering consumers channels individually, rather than bundled in a large package, even though doing so may give them an opportunity to differentiate their services from the incumbent cable monopoly and respond to strong consumer demand for greater channel choice.

TRUE COMPETITION REQUIRES NETWORK NEUTRALITY

While it is certainly true that head-to-head competition helps consumers, it is also important to recognize that a duopoly (cable and telephone companies) is not enough to create vigorous competition that gives consumers the full benefit of a competitive video and broadband market. As subscription video services are increasingly offered using Internet-based technologies, maintaining the Internet as a neutral platform on which network owners cannot discriminate becomes even more essential. The Bells are not the only providers who could compete with cable. Increasingly, "video on demand" is being offered over the Internet, where consumers can access movies or pay to watch a single episode of a single program. As Congress considers ways to increase competition in video services, it must not overlook independent Internet content providers as a third competitor. But that source of competition will be squelched if Congress fails to adopt strong, enforceable prohibitions on network discrimination.

As the Bells enter the video marketplace, there exists an even stronger incentive for both cable and telephone companies that own and control the broadband pipes to discriminate against companies that offer services over the Internet that compete with their own. Both cable and telephone companies who also own and control broadband networks will have an incentive to use their network control to prioritize their own content over others, preventing users from accessing competitive video services offered by Internet providers.

Moreover, there will be a temptation to recover the costs of the new video networks by charging not only broadband subscribers but also those firms offering content and services over the Internet. Recent media reports describe operators' plans to create pay-for-play "tiers" of premium service. The fees charged to content and service providers would inevitably find their way down to consumer wallets *that have already paid for access*. Though this may be rational market behavior for short-term return on investment, it is patently discriminatory and reflects a fundamental change in the nature of the Internet.

With a strong network discrimination prohibition, the promise for competition in video will come not just from Verizon and AT&T, but from any other entrepreneurial company that offers video via the Internet in a manner more appealing to consumers. Without such a prohibition, however, that promise of competition and innovation will be lost.

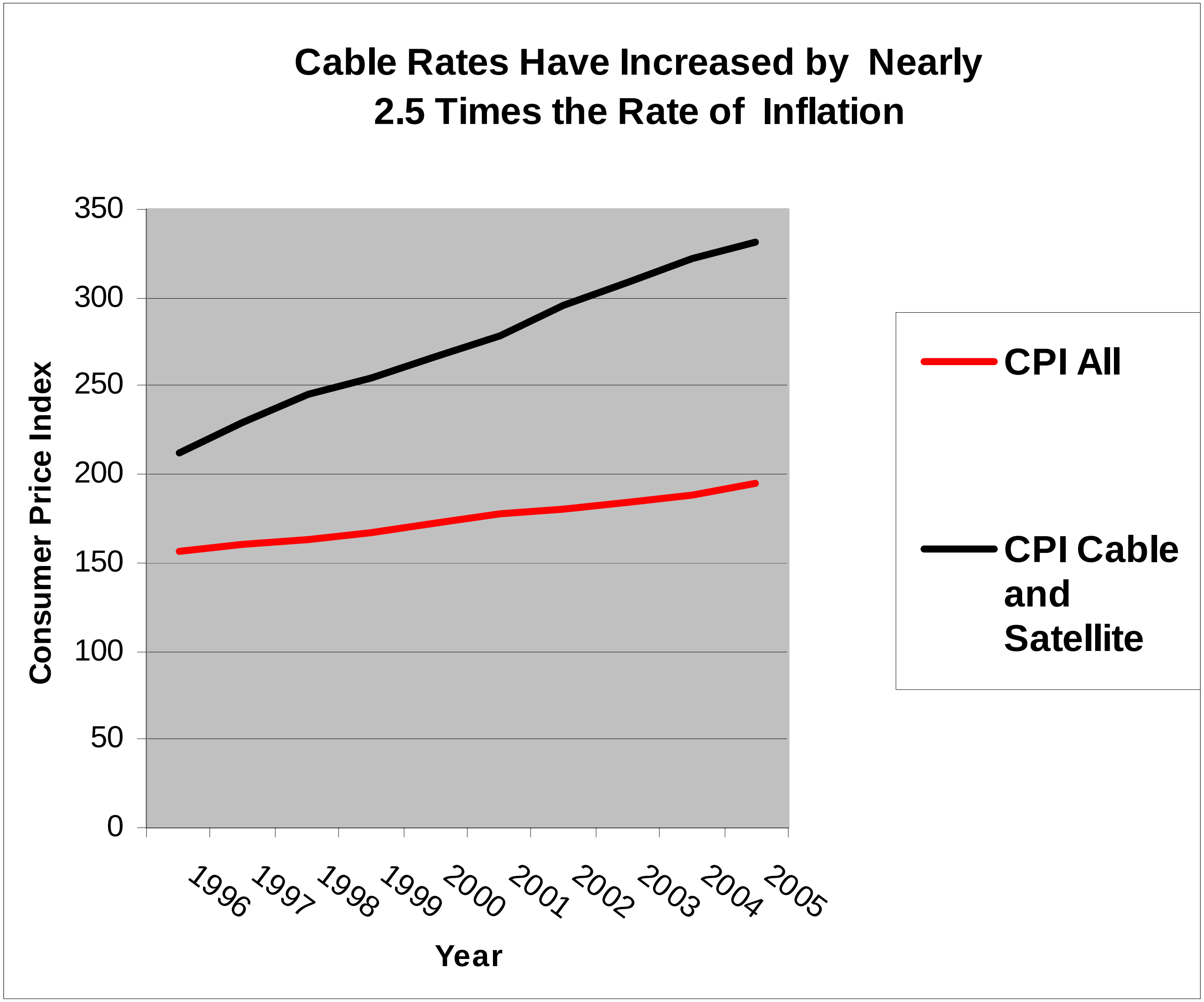
The appearance of integrated video and broadband services like franchised IPTV should not distract policy makers from the fundamental and pro-competitive policy of network neutrality. Similar services and content on the Internet must be treated alike, and network owners must not be allowed to favor their own services by blocking customer access to competitive services offered on the Internet or to erect barriers to entry into what has been a competitive online marketplace by requiring innovators to pay for access to the network.

It is imperative that, as part of its consideration of competition in video markets, Congress prohibit network operators from blocking, impairing, or discriminating between content and service providers. The consumer, not the network operator, should determine winners and losers in the online marketplace.

CONCLUSION

The need for greater competition in the monopolistic video marketplace is an urgent one—but it has been urgent for ten years. We urge Congress to take the time to consider the many policy issues that must be addressed beyond the question of franchising if it seeks to spur true video competition and the consumer benefits that spring from it. These include mandatory build out requirements or in lieu thereof, resources to meet the needs of underserved consumers; consumer protections and provider obligations to serve community needs; prohibitions on preempting municipal broadband systems; prohibitions on anticompetitive contractual channel bundling requirements that reduce consumer choice and prevent product differentiation; and a strong enforceable prohibition on network discrimination.

Attachment 1



Attachment 2

Announced Cable Rate Increases for 2005, 2006

Community	Cable Provider	Rate Increase
Ann Arbor, MI	Comcast	6.0%
Baton Rouge, LA	Cox	5.0%
Boston, MA	Comcast	5.9%
Burlington, VT	Adelphia	5.2%
Cincinnati, OH	Time Warner	6.1%
Clark County, WA	Comcast	7.1%
Columbia, SC	Time Warner	4.9%
Deptford, NJ	Comcast	8.9%
Evansville, IN	Insight	8.4%
Hartford, CT	Comcast	7.0%
Houlton, ME	Polaris Cable	5.0%
Houston, TX	Time Warner	3.4%
Lincoln, NE	Time Warner	5.0%
Little Rock, AR	Comcast	3.5%
Madison, WI	Charter	4.4%
New York City, NY	Time Warner	6.0%
New York City, NY	Cablevision	2.8%
Northern, KY	Insight	3.3%
Oklahoma City, OK	Cox	5.0%
Orlando, FL	Bright House	5.0%
Phoenix, AZ	Cox	5.0%
Portland, OR	Comcast	7.1%
Portsmouth, NH	Comcast	7.9%
Providence, RI	Cox	4.7%
Reno, NV	Charter	5.9%
Richmond, VA	Comcast	5.9%
Rochester, NY	Time Warner	5.6%
Rockford, IL	Insight	7.0%
Sacramento, CA	Comcast	6.0%
San Francisco, CA	Comcast	5.7%
St. Louis, MO	Charter	7.8%
Tupelo, MS	Comcast	5.5%
Wheeling, WV	Comcast	9.0%

Source: Local Media Accounts

Endnotes

[1] Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the state of New York to Provide consumers with information, education and counsel about good, services, health and personal finance, and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of *Consumer Report*s, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, *Consumer Reports* with more than 5 million paid circulation, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.
[2] The Consumer Federation of America is the nation's largest consumer advocacy group, composed of over 280 state and local affiliates representing consumer, senior, citizen, low-income, labor, farm, public power an cooperative organizations, with more than 50 million individual members.
[3] Free Press is a national nonpartisan organization with over 200,000 members working to increase informed public participation in crucial media policy debates.
[4] Federal Communications Commission, 2002b, Table C-1. Kagan, Paul Associates. *Major Cable TV System Clusters.* Carmel, California: Paul Kagan Associates 1998; Federal Communications Commission, Tenth *Annual Report.*
[5] Kagan, Paul Associates. *Major Cable TV System Clusters.* Carmel, California: Paul Kagan Associates 1998; Federal Communications Commission, Tenth *Annual Report.*
[6] General Accounting Office. "Issues Related to Competition and Subscriber Rates in the Cable Television Industry," Report to the Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, October 2003, GAO-04-8, Appendix IV.
[7] Subcommittee on Antitrust, Monopolies and Business Rights, Committee on the Judiciary, United States Congress. *Competitive Issues in the Cable Television Industry.* March 17, 1988; Committee on Energy and Commerce, *Report on H.R. 4850,* Senate Committee on Commerce and Science, *Report on S12.*
[8] Federal Communications Commission. "Report on Cable Industry Prices." *In The Matter of Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992,* Statistical Report on Average Rates for Basic Service, Cable Programming Service, and Equipment, 2002, p. 20.
[9] General Accounting Office. "Issues Related to Competition and Subscriber Rates in the Cable Television Industry," Report to the Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, October 2003, GAO-04-8 , p. 11. "The Effect of Competition From Satellite Providers on Cable Rates." Report to Congressional Requesters, GAO/RCED-00-164, July 2000.
[10] Bureau of Labor Statistics, U.S. Department of Commerce, December 2005.
[11] GAO-04-8**,** p. 11.
[12] USA Today. **"**Cable, phone companies duke it out for customers," June 22, 2005.
[13] U.S. Census Bureau. Median Family Income; Counties within the U.S., 2004 American Community Survey.
[14] Multichannel News. "SBC Sues Calif. City Over Access," December 19, 2005.
[15] Mark Cooper, *Time to Give Consumers Real Cable Choices,* Consumer Federation of America & Consumers Union, July 2004, p. 5.
[16] MM Docket No. 92-264, Comments of CFA, CU, Free Press in the Matter of The Commission's Cable Horizontal and Vertical Ownership Limits and Attributions Rules., August 8, 2005.
[17] GAO-04-8, p. 27.
[18] Id. at 29.
[19] Federal Communications Commission, Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming: Eleventh Annual Report, January 14, 2005, ¶150.
[20] Id. at ¶151.
[21] EchoStar Communications Corporation, Testimony of Charles Ergen, Chairman & CEO, EchoStar Communications Corporation before the Senate Committee on Commerce, Science and Transportation, January 19, 2006; Testimony of Bennett Hooks, Chief Executive Officer, Buford Media Group on behalf of the American Cable Association, before the Subcommittee on Telecommunications and the Internet, July 14, 2004.