



**BEFORE UNITED STATES SENATE
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION**

VIDEO FRANCHISING

TESTIMONY

OF

MAYOR MICHAEL A. GUIDO

ON BEHALF OF THE

THE UNITED STATES CONFERENCE OF MAYORS,

NATIONAL LEAGUE OF CITIES,

NATIONAL ASSOCIATION OF COUNTIES,

NATIONAL CONFERENCE OF BLACK MAYORS, INC.

NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS,

GOVERNMENT FINANCE OFFICERS ASSOCIATION

AND

TELECOMMUNITY

MAY 18, 2006

WASHINGTON, D.C.

Introduction

Good morning, Chairman Stevens, Senator Inouye and members of this Committee, I am Michael A. Guido, Mayor of Dearborn, Michigan. I am honored to be here today to testify not only on behalf of the The United States Conference of Mayors (“USCM”) where I am the Vice President, but also on behalf of local governments across this nation, as represented by the National League of Cities (“NLC”), the National Association of Counties (“NACo”), the National Conference of Black Mayors, the National Association of Telecommunications Officers and Advisors (“NATOA”), the Government Finance Officers Association (“GFOA”), and TeleCommUnity.¹

On behalf of America’s local elected officials and their advisors, I want to stress that America’s local governments embrace technological innovation and competition in the video marketplace. We want and welcome real competition in a technologically neutral manner. Local governments – and our residents – support the deployment of new video services as rapidly as the market will allow. We appreciate the recognition of the importance of municipal provisioning of broadband where communities believe that it is in their best interest. We trust that the Committee will consider ensuring that the opportunity for local governments to partner with the private sector, or self provision broadband services, remain genuine and that any barrier to such provisioning is removed. We appreciate the important work of the Chair and Co-Chair on the issues of

¹ USMC, NLC, NCBM and NACo collectively represent the interests of almost every municipal or county government in the United States. NATOA’s members include elected officials as well as telecommunications and cable officers who are on the front lines of communications policy development in cities nationwide. GFOA’s members represent the finance officers within communities across the country who assist their elected officials with sound fiscal policy advice. TeleCommUnity is an alliance of local governments and their associations that promote the principles of federalism and comity for local government interests in telecommunications.

Universal Service and Interoperability, and we look forward to working with the Committee to ensure that such issues are addressed appropriately.

Since today's hearing, and this panel in particular, is focused on the video franchising title of the bill, my remarks today are directed to that issue. I would also like to express our concerns with the current draft of the Communications, Consumer's Choice, and Broadband Deployment Act of 2006 (S. 2686). In so doing, I want to emphasize that we have met with the Committee staff and shared these concerns with them. We understand that this is still a work in progress, and we look forward to continuing our work with the committee to make improvements to the bill.

The concerns of local government reflect the scope and variety of issues raised in this legislation, and it will take time to ascertain its impact on the wide array of stakeholders that it affects. But that's what makes preserving the local voice in video franchising so important. It permits each community, based on unique community needs and citizen input, to decide for itself – in a fair, equitable and politically accountable manner - the nature of the video service that will be provided to its citizens. Local governments should retain their authority to supervise rights-of-way and recover the associated costs for doing so, require the payment of a reasonable franchise fee, ensure access to all and require appropriate public, educational and government (“PEG”) access channels and institutional networks (“I-Nets”) support. The federal government has neither the resources nor the expertise to address such issues.

The limited and severely restricted role of local governments over providers for the delivery of video services in this bill is troubling. Indeed, proposed section 601 would abolish the long-

standing Congressional policy that franchise procedures and standards should assure that cable systems are “responsive to the needs and interests of the local community.” And while we believe your intentions may have been to affirm the role of local governments in the video franchising process, the legislation, in its current form, would severely undermine local franchising enforcement and compliance authority, threaten local budgets, limit the benefit of broadband-video competition to a few well-to-do neighborhoods, weaken provisions that ensure that video providers meet each community’s unique needs and interests, and undermine the ability of local government to protect their residents. This bill would do harm to citizens, consumers of these new services, and the communities in which they reside in five significant ways:

First, while ostensibly preserving local franchising authority, the net effect of the legislation is to strip authority from local governments and grant that authority to the Federal Communications Commission (“FCC”). It is essential that the Committee understand that the requirement for a franchise authority to act in 15 days, and to approve a franchise in 30 days, would in many instances violate state and local law, deprive elected officials of their statutory rights and authority, and leave consumers without a voice in their community.

Second, the bill would send all rights-of-way disputes to the FCC, an agency that lacks the resources and expertise to handle them. The bill would second guess not only the general police powers of the community, but the policies and engineering practices of public works departments nationwide – and put those decisions within a federal agency with no stake in the outcome other than to speed deployment at any or all cost.

Third, while the intent may have been to keep localities financially whole, the bill would result in a significant loss of financial support to local governments. The exclusion of advertising and home shopping revenues would significantly diminish the rent paid for the use of public property. Further, the reduction in the base of gross revenues will undermine local government's ability to provide necessary services through the use of public, educational and government access facilities and deprive public safety and governmental use of institutional networks.

Fourth, while at first glance the bill appears to prohibit redlining, it would permit video providers to pick and choose the neighborhoods they would like to serve and bypass others completely. This bill will not enhance the position of this country in the standing of broadband deployment, but will certainly widen the gap of those who have access. Rather than ensure that everyone is served and served equitably, this legislation will continue the downward spiral that the unregulated market has created thus far.

Fifth, it appears that the bill undermines the taxing authority of state and local governments in areas wholly unrelated to rights-of-way compensation.

Local Governments Concerns – No Choice and No Deployment

For local government, this debate is not about stifling competition or throwing up roadblocks to delay new entrants from entering into the video marketplace. To suggest otherwise is nonsense. Rather, this debate is about protecting core local government functions – a job our citizens expect their local officials to do. It's about streets and sidewalks, public safety, first responders,

citizen involvement in local politics, and seeing that all of our residents are afforded the same, equal opportunity of access to these technological advances that increased competition will bring into our communities.

Local governments have been managing communications competition for many years now and are familiar with the needs of new entrants into the market. The twist to the current debate is one which focuses not on the “new” entrant, but on the entrenched monopolist entering into a “new” line of offerings. After many years of false starts and broken promises – the potential entry into video by a few, well-funded and dominate players has placed in jeopardy the entirety of the statutory structure that guides such entry.

Local governments understand the need to streamline our deliberative processes – to speed up the franchise application timeline, and we could support changes in federal law that established the current process for franchising. However, in the process of making these changes we need to ensure that our communities are served and our citizens’ concerns are heard.

You may have heard about the recent push by many local communities in Michigan to get AT&T to enter into the video marketplace. These communities, representing approximately 60% of the state’s population, formally asked AT&T to respond to the more than 600 invitations and resolutions sent to it asking the company to sign local franchise agreements and start real competition for video customers. But AT&T remained silent, leading Michigan’s towns and cities to publicly ask AT&T, “Can you hear us now? We want competition!” It was not until the media was alerted that AT&T finally began to respond.

Local government is concerned that the continued rhetoric and unfounded, unsubstantiated claims of delays and barriers to entry into the marketplace voiced by the very same companies that now, at last, seek to provide video services in our communities and “promise to do right by us,” have led some members of Congress to believe that competition and innovation will flourish only if local government is removed from the franchising equation. Their new mantra is “national franchising now.” But a national franchising scheme just doesn’t add up. Hundreds of millions of dollars have been spent perpetuating this myth.

For months, the telephone companies wanting to enter into the video marketplace have been stating – in print and on television advertising, and at public hearings like this – that they intend to keep local governments whole. They say they are prepared to pay the same franchise fees that cable companies pay now. They say they will carry and support public, educational and government (“PEG”) access channels and institutional networks (“I-Nets”). They say they support the preservation of state and local governments’ authority to manage their public rights-of-way. And they say that they believe in and support full customer access to the services they intend to provide.

But when you look at this legislation, we are again disappointed to find these commitments to keep local governments – and their citizens – whole, are empty. This legislation, which – in reality - seeks to create a national franchising scheme, takes away many of the bargained for benefits that our citizens enjoy and expect to receive from these companies that come into our towns and cities and make use of the public’s rights-of-way. The very benefits and services the

telephone companies say they are supportive of are either watered down or are totally missing in this legislation. For example, the bill permits the local franchising authority to impose and collect a franchise fee not to exceed five percent of the provider's gross revenue. However, at the same time, the bill redefines "gross revenues" to exclude advertising and home shopping revenues. As a result, communities may see their franchisee fees decrease by as much as fifteen to twenty percent.

Local governments and our citizens have been waiting for competition in the video arena for years – indeed, since 1992 when the Communications Act explicitly guaranteed such opportunities. In 1996, after telephone company leaders promised to enter the video market and provide real competition and consumer choice, federal law was changed once again to encourage that entry and to provide regulatory relief in exchange. Industry leaders predicted great things for consumers, but consumers never got competition or lower rates – all they got were higher bills.

Today, we are hearing once again from those who clamored for change over a decade ago for another rewrite to the rules of a game that they have sat out of for over 10 years. Once again, we are hearing promises of great things to come for consumers. And we have been told time and again that local governments will be kept financially whole, that local governments will see their revenues preserved and even possibly grow.

Local government franchising is not the reason the telephone companies have sat out of the game. Current federal law is not the reason they haven't gotten into the game. The simple

reason they have been sitting on the sidelines until now is because of marketplace economics. Until recently, the provision of bundled services hasn't proven to be as financially attractive as the telephone companies' business plans have required in order for them to step up to the plate and get in the game.

Tossing away local franchising and the ability of local governments to truly control and protect the public rights-of-way and to confer this authority on the Federal Communications Commission is not the solution. Such a scheme just doesn't add up. This is a concern that we have raised on numerous occasions - in private discussions, in public forums, and at previous House and Senate hearings. Protecting local franchising authority has been, and will continue to be, the same message and the same position that we have been advocating for years because the process works. Let local government continue to have its voice heard in the franchising process and let local government continue to maintain its historic authority over the public rights-of-way - where it belongs. And let the courts, not the FCC, continue to have the authority to resolve any disputes that may arise.

This Committee, in its desire to speed up the entry of new video competitors in the marketplace, should not give these companies a blank check. Rather, it should strive to ensure that all providers have similar responsibilities in providing video services so that all consumers may enjoy the benefits of such services on a non-discriminatory basis.

Preserve Local Authority Over the Public Rights-of-Way

Even though technologies change, some things remain the same. For example, most of the infrastructure being installed or improved for the provision of these new services must still be placed in public streets and sidewalks. Local officials are the trustees of public property and must manage it for the benefit of all. We require – because we must - important public safety controls to ensure that telecommunications uses are compatible with water, gas, and electric infrastructure that are also in the public rights-of-way. Ensuring that the installation of new services in the public rights-of-way doesn't result in gas leaks, electrical outages, and water main breaks are among the core police responsibilities of local government, as is ensuring the efficient and safe movement of traffic over, under, and adjacent to these facilities. Local government is in the best position to manage these competing interests. It is local government that can best handle the complaints that arise from the installation of these services. It is local government that is in the best position to ensure that local problems are resolved in a timely and efficient manner. It is local government that is in the best position to ensure that a resource owned by the public is put to the best use for its citizens. And while our citizens want what they have long been promised - better services at lower prices – they don't want potholes in their roads, dangerous sidewalks, water main breaks, and rush hour traffic jams as a consequence. The proposed bill will eliminate many of the protections that current statutory authority and local authority address today.

We look forward to working with Committee members to make sure that any legislation that is ultimately approved by the Senate does not abrogate this core tenet of federalism.

Keep Localities Financially Whole – Protect Public, Educational and Government (PEG) Access Channels and Institutional Networks (I-Net)

There's no disputing that communications companies are innovative. When you look back over the past 100 years, the changes we have seen in technology are absolutely mind-boggling. And new technologies and new products are coming onto the market so quickly that it makes your head spin. Last year's cell phone that took still photos is already being replaced with this year's cell phone that can play television programs and take both still photos and videos! You can't help but laugh when you watch a motion picture from a few years ago and see someone talking on a cell phone the size of an NBA player's shoe.

But at the same time, the social obligations that have developed over the past decades have endured. These obligations include the continuing financial support for the provision of public, educational and government ("PEG") access channels and institutional networks ("I-Nets"); prohibitions against redlining; and customer service and consumer protection.

There is no argument that locally produced video programming performs an important civic function by providing essential local news and information. Under existing law, a certain amount of cable system capacity and financial support for that capacity may be set aside for the local community's use. This capacity is most often used in the form of channels carried on the cable system and are referred to as PEG for public, educational and government channels. Once the local franchising authority has established the required number of PEG channels and the financial support required to meet local community needs, it then determines the nature of the use, which may be mixed between any of the three categories.

Current provisions of the Cable Act dealing with PEG access channels are intended to provide all members of the local community with access to the medium of television. And this system has worked very well. Whether it is video coverage of governmental meetings, information about government services or special programs, or local law enforcement's most wanted, these channels permit local communities to disseminate information and to better serve and interact with their constituents. Local governments continue to make innovative uses of this programming capacity as new interactive technologies allow more valuable information to be made available to our constituents.

Under the current framework, local communities are permitted to freely negotiate with video providers the amount of PEG financial support that will be provided to the community. But under this proposed bill, PEG fees would be set at a uniform rate of one percent of the provider's gross revenue. While many communities across the country already impose a one percent of gross revenue formula for PEG financial support, a number of communities across the nation have entered into freely negotiated franchise agreements with video providers that provide for additional financial support. This legislation would strip those communities of the support that their video providers agreed to give to support these vital local resources. Some communities would lose up to 67% of their PEG financial support under this proposed legislation

Even more troubling is this legislation's treatment of I-Net support. The bill provides that a local franchising authority may require an existing video provider to continue to provide any existing institutional network. But it also permits the operator to deduct the incremental cost of operating such a network from the one percent PEG fee. If that incremental cost exceeds the one percent

PEG fee, the local franchising authority could very well be faced with the Hobson's choice of giving up all or a good portion of its PEG support to maintain the existing institutional network, or simply abandon the I-Net altogether. And remember: In many of communities I-Nets are used for vital local government purposes, including public safety, first responder and homeland security purposes.

Furthermore, unlike the current Cable Act, the proposed legislation explicitly excludes advertising and home shopping revenues from its definition of "gross revenue." As a result, local governments will see an almost immediate drop in both franchise fees and PEG funding under the one percent funding formula. The promise to keep local governments whole just doesn't ring true.

The Congressional Budget Office recently examined the Communications Opportunity, Promotion, and Enhancement ("COPE") Act of 2006 (H.R. 5252). It estimated that by 2011, local communities could lose anywhere from \$100 million to \$350 million dollars in PEG and I-Net support as a result of the bill limiting such support to one percent of the operator's gross revenues. And COPE, unlike this bill, includes advertising and home shopping in its definition of "gross revenues" and does not contain the I-Net offset. We have not yet had enough time to ascertain exactly how much more revenue local governments would lose under this proposed bill. The loss could be staggering!

Decisions concerning the need and extent of PEG access channels and institutional networks are best made at the local level, based on the unique needs of each community. This Committee

should resist industry pressure to impose a one-size-fits-all financial support scheme that just doesn't add up.

Prohibit Redlining

It is imperative that video providers treat all residents of the community alike, just as local governments are obligated to treat all video providers alike. There is nothing in the current federal law that requires a new video entrant to deploy its services to the entire community immediately. But if the telephone companies have their way, there will be nothing in federal law that would require them to deploy their video services throughout their existing service area - ever.

Redlining is the practice of refusing to serve a particular area because of the race or income of its residents. The term redlining became familiar back in the 1930's when lenders began using racial criteria when assessing lending and insurance risks. Green lines were used for newer, affluent areas, while red lines were used for black and poor white neighborhoods. The Federal Housing Administration actually used this methodology in assessing areas for federally insured new housing loans.

Any new telecommunications legislation must be drafted to ensure that the income, race, or any other discriminatory factor is not used to assess areas for the deployment of new and innovative video services. Unfortunately, this bill in its current form would allow a provider the option of serving only a defined portion of the community and bypass other areas as long as the provider

did not refuse to provide service to an individual poor person living on the same street as wealthier consumers.

Contrary to what some industry officials say, redlining is not a red herring. Communities across the country have seen the telephone companies bypass poorer neighborhoods while upgrading services in more affluent areas. Indeed, it has been reported that AT&T informed its Wall Street investors that in Michigan, the company was going to provide its video product to ninety percent of its “high value” residents, but to only five percent of its “low value” residents, which it defines as those customers who buy less than \$110 a month in telecommunications services. It’s not hard to see how such a business plan on a national scale will deprive millions of Americans of the benefits of increased competition and technological advances.

This Committee should not endorse legislation that would in any way permit new entrants to deny video access to our residents and should tell these companies to put away their red pens.

Protect State and Local Taxing Authority

The bill contains three tax saving clauses in sections 622(d)(1), (2), and (3), each more successively narrowly-tailored than the next. They are not only confusing, but internally inconsistent as well. While section 622(d)(1) appears sufficient by itself to protect locally-imposed taxes as well as any state-imposed telecommunications taxes that are not imposed in lieu of rights-of-way compensation, sections 622(d)(2) and (3) contradict it. Exactly how the FCC or a judge is expected to make sense of the three provisions is anyone’s guess.

Section 622(d)(2) is redundant with the definition of “franchise fee” as amended in proposed section 622(d)(1) and should be eliminated. However, section 622(d)(3) is more troubling. It suggests that locally-imposed taxes (as opposed to those imposed by the state) are not protected from preemption. The section also suggests that even state- imposed telecommunications taxes that are not in lieu of rights-of-way compensation are not saved. By including these two unnecessary sections, the bill creates only more mischief on local governments and creates an issue that simply does not need to exist.

Conclusion

In the rush to embrace new technology, and to enhance the entry of new competitors in the market, it is the responsibility of local government to ensure that our citizens are protected and public resources are preserved. We value the deliberative process, such as this hearing today, to be sure that we are making informed decisions. Local control and oversight should not be confused with delay and barriers to competition. The franchising process should be designed to promote fairness for consumers and promote a level playing field for all providers.

Franchises don’t simply give permission to provide video services to our citizens; they are the core tool – a contract - we use to manage public sidewalks and streets, provide for public safety and homeland security, enhance competition, provide locally-originated programming, and collect compensation for the private use of public rights-of-way.

Collectively, we represent the interests of almost every municipal and county government in the United States. We strongly endorse promoting competition that will permit new video providers

to come into our communities on a level playing field, while preserving local franchising authority that has proved to be so valuable to our cities and counties around the country. We would be pleased to provide this Committee with additional information to further your assessment of these concerns as you continue your deliberations on video franchising. We note that there remain a significant number of areas within the bill that we have not yet addressed, including consumer protection and privacy which are in the forefront of areas of concerns by communications consumers today. We look forward to continuing our work in assessing the legislation and its impact, and believe that the Committee should continue its excellent work and ensure a strong record in support of any decision to change existing law.

Thank you. I look forward to answering any questions you may have.



Local Government: Partner in Promoting Video Competition

May 5, 2006

The Honorable Ted Stevens
Chairman
Committee on Commerce, Science and Transportation
The United States Senate
254 Senate Russell Office Building
Washington, DC 20510

The Honorable Daniel K. Inouye
Ranking Member
Committee on Commerce, Science and Transportation
The United States Senate
560 Senate Dirksen Office Building
Washington, DC 20510

Dear Chairman Stevens and Ranking Member Inouye:

On behalf of America's local elected officials and their advisors, we write to express our concerns with the current draft of the Communications, Consumer's Choice, and Broadband Deployment Act of 2006 (S. 2686).

While we believe your intentions may have been to reaffirm the role of localities in the video franchising process, in its current form, the bill would undermine local franchising enforcement and compliance authority, threaten local budgets, limit the benefit of broadband-video competition to a few well-to-do neighborhoods, weaken provisions that ensure that video providers meet each community's needs and interests, and undermine the ability of local governments to protect their residents. This bill would do harm to consumers, cities and counties in five significant ways:

First, while the bill ostensibly preserves local franchising authority, the net effect is that it strips local authority and grants it to the Federal Communications Commission (FCC) to determine virtually all franchise terms by rulemaking, requires that a franchise be granted by federal law within 30 days of a broadband-video provider filing an application, and places an unreasonable and what we believe for most cities and counties will be an unattainable mandate that localities must act within 15 days. The consequence for not acting within 30 days of application is that the bill "federalizes" local video franchising and eliminates the 1% fee for Public, Educational, and Government (PEG) access channels used to carry local programming and appropriate institutional network (I-Net) obligations for government and emergency communications.

Second, as crafted, the bill would send all rights-of-way disputes to the FCC, not the courts, which is the current practice. Communities, large and small, would be placed in the difficult position of reaffirming their rights-of-way management and practices by satisfying a set of hurdles, at least six in the current draft, before the FCC. Furthermore, if the provider wins, the local community would be required to pay the costs and attorneys fees of the broadband-video provider. The bottom-line is that the FCC is granted the authority to oversee and second-guess all local rights-of-way management practices even though it has never had the authority to regulate local public rights-of-way and has no expertise concerning local streets, sidewalks, public safety and traffic patterns.

Third, this bill abandons commitments to keep localities financially whole in the rewrite of the video franchising process by excluding advertising and other non-subscriber revenues from the current 5% franchise fee. In addition, many communities have made the decision in their local franchises to obtain more than 1% worth of PEG and I-Net support for needs such as fire, police, and other governmental communications, and in those

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communities, local programming and emergency communications would be diminished as a result of this bill. The pledge to keep localities financially whole would be further marginalized by preemption language that does not allow localities to conduct franchise fee audits.

Fourth, while the draft ostensibly prohibits economic redlining through the use of the current Cable Act, it allows providers of the broadband-video services to use the public rights-of-way in a community, but pick and choose which neighborhoods they wish to serve while bypassing all others completely.

Fifth, it appears (although we seek clarification) that the bill fails to protect locally-imposed telecommunications taxes as well as any state-imposed telecommunications taxes that are not imposed in lieu of rights-of-way compensation.

Franchises do not just provide permission to offer video services; they are the core tool localities use to manage streets and sidewalks, provide for public safety and homeland security, enhance competition, provide locally-originated programming, and collect compensation for private use of public rights-of-way.

Collectively, we represent the interests of almost every municipal or county government in the United States and look to you for your attention to our concerns. We strongly endorse promoting competition that will allow new broadband-video providers to enter our communities with level playing fields, while maintaining the local franchise authority so important to cities and counties around the country. We would be pleased to supply additional information to further your assessment of these concerns as you continue your deliberations on video franchising.

Sincerely,



Tom Cochran
Executive Director
The U.S. Conference of Mayors



Donald Borut
Executive Director
National League of Cities

Larry Naake
Executive Director
National Association of Counties



Libby Beaty
Executive Director
National Association of
Telecommunications
Officers and Advisors

Cc: The Senate Committee on Commerce, Science and Transportation
The United States Senate

THE UNITED STATES CONFERENCE OF MAYORS
NATIONAL LEAGUE OF CITIES
NATIONAL ASSOCIATION OF COUNTIES
NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS
GOVERNMENT FINANCE OFFICERS ASSOCIATION
INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION

April 25, 2006

The Honorable Joe Barton
Chairman
Committee on Energy and Commerce
The U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable John D. Dingell
Ranking Member
Committee on Energy and Commerce
The U.S. House of Representatives
2322 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Barton and Ranking Member Dingell:

On behalf the nation's local elected officials and their advisors, we write to express our opposition to the current draft of the Communications, Opportunity, Promotion and Enhancement Act of 2006 (COPE) scheduled for mark-up tomorrow, Wednesday, April 26, by the U.S. House of Representatives Energy and Commerce Committee.

The legislation as it is currently written would nationalize franchising of video services, give the Federal Communications Commission (FCC) in Washington, D.C. control and oversight of how cities and counties manage their streets and sidewalks, limit the benefits of video competition to a few well-to-do neighborhoods, threaten local governments' budgets, and undermine the ability of local governments to protect their residents. We urge the Committee to adopt amendments that protect local governments and their residents, including the following:

Rights-of-Way/Revenue Amendment: Is necessary to protect local authority over rights-of-way and send disputes with providers to courts.

Cable Service/IPTV Amendment: Is essential to clarify that new Internet protocol-based and on-demand video services are "cable services" subject to the 5% cable franchise fee.

PEG Amendment: Is necessary to keep local governments whole by requiring new entrants to pay for public, educational, and government ("PEG") access support, the greater of 1% of gross revenues, or the per-subscriber equivalent of what the incumbent cable operator provides for PEG support in its current franchise.

Buildout Amendment: Would require new entrants to build out each local franchise area over time.

Anti-Redlining Amendment: Prohibits new entrants from discriminating against poorer neighborhoods in the availability of service.

Enforcement Amendment: Retains local governments shared authority with FCC to handle customer service and similar complaints.

Collectively, we represent the interests of almost every municipal or county government in the U.S. and look to you for your attention to these important issues. We would be pleased to supply additional information to further your assessment of these issues as you continue your deliberations on the rewrite of the Federal Communications Act.

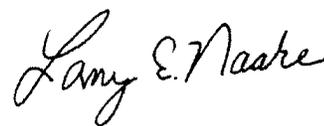
Sincerely,



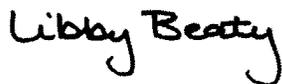
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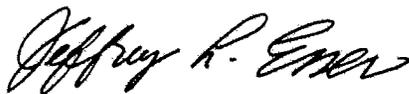
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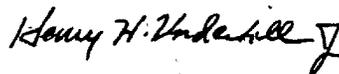
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Jeffrey L. Esser
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Officers Association



Henry Underhill
Executive Director
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Lawyers Association

Cc: The U.S. House of Representatives

Attachments: Protect Cities and Counties by Supporting Amendments to COPE 2006
Local Governments Truth Paper



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January 25, 2006

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PETER A. CLAVELLE
Mayor of Burlington
SHIRLEY FRANKLIN
Mayor of Atlanta
OSCAR B. GOODMAN
Mayor of Las Vegas
JAMES W. HOLLEY, III
Mayor of Portsmouth
ROSEMARIE IVES
Mayor of Redmond
ELIZABETH B. KAUTZ
Mayor of Burnsville
KWAME M. KILPATRICK
Mayor of Detroit
CARLOS MAYANS
Mayor of Wichita
PATRICK McGRORY
Mayor of Charlotte
LAURA MILLER
Mayor of Dallas
GAVIN NEWSOM
Mayor of San Francisco
MARTIN O'MALLEY
Mayor of Baltimore
BART PETERSON
Mayor of Indianapolis
JORGE A. SANTINI
Mayor of San Juan
JOHN F. STREET
Mayor of Philadelphia
JUDITH VALLES
Mayor of San Bernardino
L. DOUGLAS WILDER
Mayor of Richmond, VA
SHELLA YOUNG
Mayor of San Leandro

Executive Director:
TOM COCHRAN

The Honorable Ted Stevens
Chairman
Committee on Commerce, Science
and Transportation
The United States Senate
508 Dirksen Office Building
Washington, DC 20510

The Honorable Joe Barton
Chairman
Committee on Energy and Commerce
The U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Committee Leaders:

On behalf of The United States Conference of Mayors and the hundreds of mayors we represent, we write to urge you to consider the following principles as you continue your deliberations on the rewrite of key sections of the federal Communications Act.

We support and encourage innovation in video, telephone and broadband services and embrace increased competition, as fast and as much as the market will sustain. However, as we convene this week in Washington, D.C. for our 74th Winter Meeting, our fundamental principle in the rewrite of the Communications Act is our responsibility to protect our citizens, local businesses, local infrastructure, and our local economy.

As you continue to debate the rewrite, we urge you to apply the following principles:

CLOSE THE DIGITAL DIVIDE

Ensure that broadband services, including those provided over a telco-cable system are made available to all residential subscribers in a reasonable period of time. This can only be done by banning "redlining", the practice of bypassing less profitable neighborhoods; and preserving the ability of franchise authorities to enforce reasonable "build out" requirements for providers.

AVOID FISCAL HARM TO LOCAL GOVERNMENTS

Any rewrite proposal should ensure consumers are paid a fair rent for use of their assets, the communities' rights-of-way. You may achieve this goal by doing no fiscal harm to local governments. Beware of proposals that claim to retain the full 5% franchise fee, but exclude traditional revenues such as advertising, and other non-subscriber revenues. Local governments need this revenue to support critical municipal services, including public safety, traffic management, and street and sidewalk preservation.

The Honorable Daniel Inouye
Ranking Member
Committee on Commerce, Science
and Transportation
The United States Senate
508 Dirksen Office Building
Washington, DC 20510

The Honorable John D. Dingell
Ranking Member
Committee on Energy and Commerce
The U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

PRESERVE LOCAL GOVERNMENT'S MANAGEMENT OF THE RIGHTS-OF-WAY

Local governments have both state delegated and inherent police powers to manage and charge impact fees in addition to rent for the use of public rights-of-way. Local governments are proven stewards of the public rights-of-way, and are pivotal in helping to prevent public safety issues resulting from overcrowding and improper use; ensuring local emergency services are provided; as well as addressing customer service and local business concerns related to misuse of public rights-of-way. It is important that Congress respect local governments' property rights and interest in the management and control of the public rights-of-way.

MAINTAIN LOCAL GOVERNMENT'S FRANCHISE AGREEMENT AUTHORITY

Congress may ensure our citizens and businesses benefit from the rewrite of the Communications Act through preserving local franchising authority. Preserving local franchise authority ensures that key services for our citizens and businesses are tailored to meet local needs, including public, education and government access channels, local emergency alerts and institutional networks.

MAINTAIN SOCIAL OBLIGATIONS & PUBLIC SAFETY OBLIGATIONS OF THE PROVIDERS

Congress and the states have long recognized that social obligations, such as channel capacity, capitol grants and in-kind support for access channels should be imposed upon communication providers as part of the compensation required of a rights-of-way occupant. Similarly, institutional network grants and in-kind support serving non-residential buildings such as police and fire stations, schools, and libraries need to be retained. Maintenance of these social and public safety systems require continued obligations based on the current 3% average on top of the 5% franchise fee.

MUNICIPAL BROADBAND

Allow local governments that have determined in order to meet their community's needs they have decided to develop municipal broadband networks either through public-private partnerships or systems wholly owned by the municipality.

We look forward to working together to further secure America's future economic growth by offering citizens a modern communications infrastructure that includes the provision of broadband service and video by competing providers.

The United States Conference of Mayors would be pleased to supply additional information to further your assessment of these issues as you continue your deliberations on the rewrite of the Communications Act. For more information, please contact our Assistant Executive Director, Ron Thaniel, at 202-861-6711 or rthaniel@usmayors.org.

cc: The United States Senate
The United States House of Representatives

Sincerely,

Quay McNeil
City: Long Beach, Calif

Doug Katz
City: Trenton, NJ

Yvonne G. Farrow
City: Camden, N.J.

John P. O'Neil
City: Cambridge Pines, FL

Irma L. Anderson
City: Richmond, Calif

For Jensen
City:

Sharon Goldsworthy
City: Germantown, TN

Catherine Melchert
City: Bartlett, IL

Barbara K. Willis
City: Mount Prospect, IL 60056

Joel E. Allen
City: Macon, GA

Beverly Johnson
City: ALAMEDA, CA

Robert E. Minsky
City: PORT ST LUCIE, FL

Janet Robinson
City: Louisville, KY

Michael A. Gudo
City: Dearborn, MI

Elizabeth MS
City: Elizabeth, NJ

Marty Blum
City: Santa Barbara, CA

Barry, IN
City: Gary, IN

Clearwater FL
City: Clearwater, FL

Northbrook, IL
City: Northbrook, IL

Laura Miller
City: DALLAS, TEXAS

Brian C. Wahler
City: Pigotaway, NJ

Greg M. Goodson
City: Beaumont, Texas

Bruce W. James
City: Fargo, N.D.

Bee Bogard
City: PASADENA, CA

Tom Potter
City: Portland, OR

Eusebio H. Oros
City: LAREDO, TX

Stella Green
City: San Antonio

W. Williams
City: Arvada, CO

Bob Minsky
City: Port St Lucie, FL

Nancy Bevel
City: Anchorage, ALASKA

Kathy Hicks
City: Walnut Creek, CA

John J. Ryan
City: Higha Little Rock, AR

Steve Miller
City: Folsom, CALIF.

Robert H. Harty
City: Overstock, MO
R. Harty
City: Albuquerque, NM

Michael A. Liu
City: Redondo Beach, CA

W. Cooper
City: Hallandale Beach, FL

Tom Bates
City: BERKELEY, CA.

Richard M. Daley
City: Chicago, ILL.

John J. Palatine
City: PALATINE, IL

John H. Hokenbury
City: DENVER

D. King
City: Seattle

Stoddard Busch
City: Atlanta

Bill Whitfield
City: Mc Kinney, TX.

Paul Mansur
City: Norfolk, VA

Bill McLeod
City: Hot Springs Estates, FL

Carl Larson
City: Schaumburg, ILLINOIS

Flame Walker
City: Bowling Green, KY
Stuart Skilton
City: Bloomington, Illinois

Philadelpia, PA
City: Philadelphia, PA

James R. Kern
City: Modesto, CA.

Kathy Keolker
City: Renton, WA.

James R. May
City: ST. LOUIS, MO

Joe Riley
City: Charleston SC

Thomas R. Miller
City: Frankfort, TN

F. Scott Foster
City: Hendersonville, TN

Dave Miller
City: Elkhart, IN

Walter Hill
City: Northampton MA

George Hartwig
City: Addison, IL

Edele Perry
City: Hartford, CT

John Marks
City: Tallahassee, FL

Tom Irvine
City: Irvine, CA

Carol
City: Carol, IN.

Euline Brock
City: Denton, TX

Bob Child
City: Burlington, VT.

Oscar Goodman
City: Las Vegas, NV

[Signature]
City: Chattanooga, TN

Bin Harlan
City: Knoxville, TN.

J. Allen James
City: Winston Salem, N.C.

Ron Douglas
City: San Jose, CA.

J. M. Franklin Cowie
City: Des Moines, IA

Alan Placido
City: Agdamispa CA

Christopher Koon
City: Normal, IL

Manuel Dickey
City: Miami, FL

John Lupo
City: North Richland Hills, TX.

Fernando Menendez
City: Boston, Mass.

h. Douglas White
City: Richmond, VA

John Kelly
City: Baltimore, MD

Continuation of Endorsing Mayors

Gavin Newsom
Mayor
San Francisco, CA

Bill White
Mayor
Houston, TX

Michael Moncrief
Mayor
Ft. Worth, TX

Roosevelt Dorn
Mayor
Inglewood, CA

Mark Mallory
Mayor
Cincinnati, OH

Joan McGilton
Mayor
Burien, WA

Steven Mullett
Mayor
Tukwila, WA

Miguel Pulido
Mayor
Santa Ana, CA

Linda Rouches
Mayor
Hood River, OR

Summary of Signatory and Authorizing Mayors

City, State - Mayor

Long Beach, CA - Beverly O'Neil

Dearborn, MI - Michael A. Guido

Trenton, NJ - Douglas H. Palmer

Anchorage, AK - Mark Begich

North Little Rock, AR - Patrick Henry Hayes

Alameda, CA - Beverly Johnson

Alhambra, CA - Steven T. Placido

Berkeley, CA - Tom Bates

Folsom, CA - Stephen Miklos

Inglewood, CA - Roosevelt Dorn

Irvine, CA - Beth Krom

Modesto, CA - James Ridenour

Pasadena, CA - Bill Bogaard

Redondo Beach, CA - Mike Gin

Richmond, CA - Irma L. Anderson

San Francisco, CA - Gavin Newsom

San Jose, CA - Ron Gonzales

San Leandro, CA - Shelia Young

Santa Ana, CA - Miguel Pulido

Santa Barbara, CA - Marty Blum

Walnut Creek, CA - Kathy Hicks

City, State - Mayor

Denver, CO - John W. Hickenlooper

Thornton, CO - Noel I. Busck

Hartford, CT - Eddie Perez

Clearwater, FL - Frank V. Hibbard

Hallandale Beach, FL - Joy Cooper

Miami, FL - Manuel A. Diaz

Pembroke Pines, FL - Frank C. Ortis

Port St. Lucie, FL - Robert E. Minsky

Tallahassee, FL - John Marks

Macon, GA - C. Jack Ellis

Des Moines, IA - Frank Cownie

Addison, IL - Larry Hartwig

Bartlett, IL - Catherine Melchert

Bloomington, IL - Stephen Stockton

Carol Stream, IL - Ross Ferraro

Chicago, IL - Richard M. Daley

Hoffman Estates, IL - William McLeod

Mount Prospect, IL - Irvana K. Wilks

Normal, IL - Chris Koos

NorthBrook, IL - Eugene Marks

Palatine, IL - Rita L. Mullins

City, State - Mayor

Schaumburg, IL - Al Larson

Carmel, IN - James Brainard

Elkhart, IN - David Miller

Gary, IN - Scott L. King

Bowling Green, KY - Elaine Walker

Louisville, KY - Jerry Abramson

Boston, MA - Thomas M. Menino

Northampton, MA - Clare Higgins

Burnsville, MN - Elizabeth B. Kautz

St. Louis, MO - Francis Slay

Winston Salem, NC - Allen Joines

Fargo, ND - Bruce W. Furness

Camden, NJ - Gwendolyn A. Faison

Elizabeth, NJ - J. Christian Bollwage

Piscataway, NJ - Brian C. Wahler

Albuquerque, NM - Martin Chavez

Las Vegas, NV - Oscar B. Goodman

Cincinnati, OH - Mark Mallory

Hood River, OR - Linda Rouches

Portland, OR - Tom Potter

Philadelphia, PA - John F. Street

City, State - Mayor

Chattanooga, TN - Ron Littlefield

Franklin, TN - Thomas Miller

Germantown, TN - Sharon Goldsworthy

Hendersonville, TN - Scott Foster

Knoxville, TN - Bill Haslam

Beaumont, TX - Guy M. Goodson

Dallas, TX - Laura Miller

Denton, TX - Euline Brock

Fort Worth, TX - Michael Moncreif

Houston, TX - Bill White

Laredo, TX - Elizabeth G. Flores

McKinney, TX - Bill Whitfield

North Richland Hills, TX - Oscar Trevino

Richmond, VA - L. Douglas Wilder

Burlington, VT - Peter Clavelle

Burien, WA - Joan McGilton

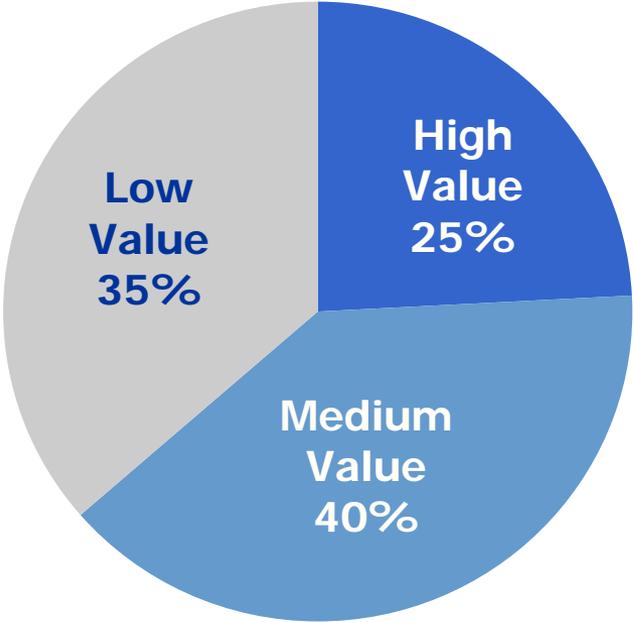
Renton, WA - Kathy Keolker-Wheeler

Seattle, WA - Greg Nickels

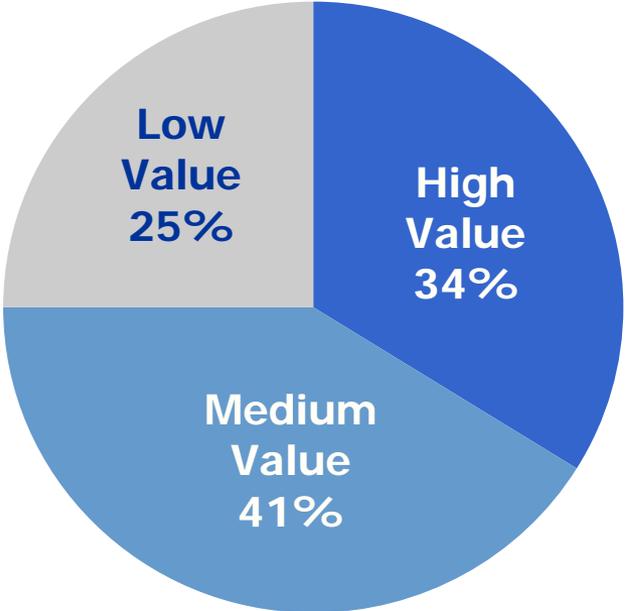
Tukwila, WA - Steven Mullett

High-Value Customers

Total Customer Household Segmentation

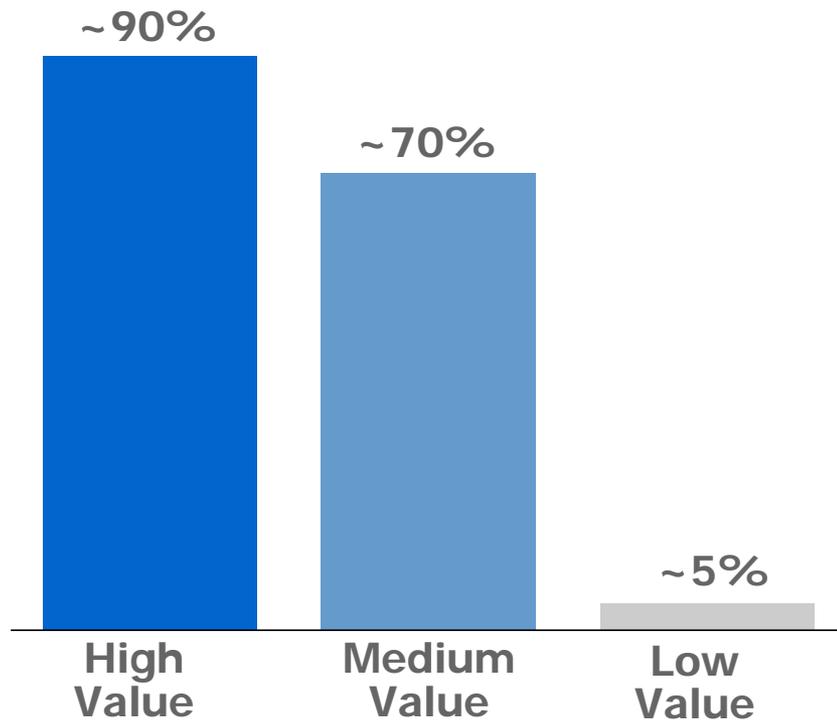


% of Customer \$ Spend Attributed to Each Segment



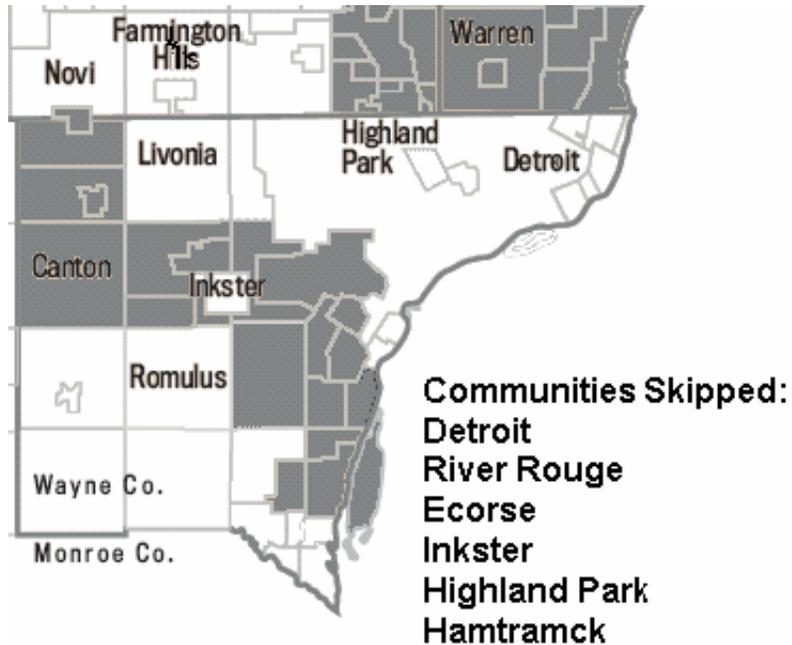
High-Value Customer Coverage

Percent of Each Segment Covered by Project Lightspeed



- FTTN is **efficient** in how it can be deployed
- Lightspeed deployment will cover approximately **90%** of high-value and **70%** of medium-value customers

Ameritech/AT&T Detroit Cable Franchises – Demographic Breakdown of Communities



WHERE SBC/AT&T DID NOT SERVE when they built a Cable System in Michigan

DETROIT

Median income household: \$29,526; *family* \$33,853

PONTIAC

Median income household: \$31,961; *family* \$36,391

ROMULUS

Median income household: \$45,088; *family* \$51,497

INKSTER

Median income household: \$35,950; *family* \$41,176

HIGHLAND PARK

Median income household: \$17,737; *family* \$26,484

WHERE SBC/AT&T DID SERVE

NORTHVILLE

Median income household: \$83,961; *family* \$98,802

CANTON TOWNSHIP

Median income household: \$72,495; *family* **\$83,546**

PLYMOUTH TOWNSHIP

Median income household: \$74,738; *family* \$90,243

GARDEN CITY

Median income household: \$51,841; *family* \$58,530

TROY

Median income household: \$77,538; *family* \$92,058

Source: Wikipedia – United State Census Bureau, 2000 Data