

**STATEMENT OF
CHAIRMAN KEVIN J. MARTIN**

Re: Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, Report and Order and Further Notice of Proposed Rulemaking (MB Docket No. 05-311)

Greater competition in the market for the delivery for multichannel video programming is a primary and long-standing goal of federal communications policy. In passing the 1992 Cable Act, Congress recognized that competition between multiple cable systems would be beneficial, would help lower cable rates, and specifically encouraged local franchising authorities to award competitive franchises. Section 621 of the statute reads, “A franchising authority may not grant an exclusive franchise and *may not unreasonably refuse to award an additional competitive franchise.*”

Telephone companies are investing billions of dollars to upgrade their networks to provide video. As new providers began actively seeking entry into video markets, we began to hear that some local authorities were making the process of getting franchises unreasonably difficult, despite clear statutory language. The record collected by the Commission in this proceeding cited instances where LFAs sat on applications for more than a year or required extraordinary in kind contributions such as the building of public swimming pools and recreation centers.

Such unreasonable requirements are especially troubling because competition is desperately needed in the video market. As we just found, from 1995 to 2005, cable rates have risen 93%. In 1995 cable cost \$22.37 per month. Last year, cable cost \$43.04 per month. Today’s Communications Daily reports that prices for expanded basic are now about \$50 per month. The trend in pricing of cable services is of particular importance to

consumers. Since 1996 the prices of every other communications service have declined while cable rates have risen year after year after year.

This item appropriately removes such regulatory barriers by giving meaning to the words Congress wrote in section 621 of the Cable Act. Specifically, the Commission finds that an LFA is unreasonably refusing to grant a competitive franchise when it does not act on an application within a reasonable time period, imposes taxes on non-cable services such as broadband, requires a new entrant to provide unrelated services or imposes unreasonable build-out requirements.

The widespread deployment of broadband remains my top priority as Chairman and a major Commission objective. During my tenure as Chairman, the Commission has worked hard to create a regulatory environment that promotes broadband deployment. We have removed legacy regulations, like tariffs and price controls, that discourage carriers from investing in their broadband networks, and we worked to create a regulatory level playing-field among broadband platforms. And we have begun to see some success as a result of the Commission's policies. High-speed connections to the Internet have grown over 400% since I became Commissioner in July 2000.

The ability to deploy broadband networks rapidly however, is intrinsically linked to the ability to offer video to consumers. As the Commission stated in the Notice in this proceeding: "The construction of modern telecommunications facilities requires substantial capital investment and such networks, once completed, are capable of providing not only voice and data, but video as well. As a consequence, the ability to offer video offers the promise of an additional revenue stream from which deployment costs can be recovered."

Similarly, in a 2005 Policy Paper, the Phoenix Center found that video is "is now the key driver for new fiber deployment in the residential market." The Phoenix Center went on

to say that: “If a new entrant cannot readily provide consumers multichannel video over an advanced network, then the prospects for success will be diminished substantially due to a reduction in the entrant’s potential revenues. Quite simply, the ability to sell video services over these fiber networks may be a crucial factor in getting those fiber networks deployed.” By enhancing the ability of new entrants to provide video services then we are advancing our goal of universal affordable broadband access for Americans, as well as our goal of increased video competition.

I am also committed to seeing that consumers are able to realize the benefits of competition in the forms of better services and lower prices. In recent years however, consumers have had limited choice among video services providers and ever increasing prices for those services. But as was just demonstrated in our annual price survey, cable competition can impact cable bills. Again, it found that only in areas where there was competition from a second cable operator did average price for cable service decrease. I am pleased that the steps taken by the Commission today will expressly further this type of competition and help ensure that lower prices are available to as many Americans as possible as quickly as possible.

Addressing build-out requirements was particularly difficult. This item seeks to strike a balance between encouraging as widespread deployment of broadband as possible while not deterring entry altogether. I believed it would have been appropriate to provide examples of build-out requirements that would be reasonable in addition to illustrating those that could not be.¹

¹ For example, I would have been willing to find that it would seem reasonable for an LFA to require that, beginning five years after the effective date of a new entrant’s franchise and every 3 years thereafter, if in the portion of the franchise area where the new entrant has chosen to offer cable service at least 15 percent of the households subscribe to such service, the new entrant increase by 20 percent the households in the franchise

area to which the new entrant offers cable service by the beginning of the next 3-year interval, until the new entrant is capable of providing cable service to all households in the franchise area.