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NEWS FROM

U.S. Senator Al Gore

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FOR IMMEDIATE RELEASE
FRIDAY, January 31, 1992

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SENATE PASSES GORE BILL TO PROTECT CABLE TV CONSUMERS
Restores Ability to Regulate Rates; Restores Competition
HOUSE ACTION EXPECTED, GORE URGES BUSH TO APPROVE

WASHINGTON -- Legislation protecting cable television consumers from skyrocketing rate increases and returning competition to the industry gained Senate approval today (1/31), and Sen. Al Gore, D-TN, one of the bill's principal authors, challenged the Administration to sign on and stand with consumers.

"Cable television consumers have been getting too much static for too long. This bill sends a clear signal to the cable television companies that they now have to answer to their customers, that they can't just raise the rates and stop answering the phones," said Gore. "Now it's up to President Bush to make it clear to cable television consumers that he'll stand with them too and fight the big cable monopoly that's been taking advantage of its customers. Threatening a veto, threatens every family already straining to make ends meet, with yet another increase in their cable television bills."

The Senate first rejected an alternative package introduced as an amendment to the bill that would have severely weakened critical portions of the bill and its ability to prevent rate increases and promote competition. In a second vote, the Senate approved S.12, the Cable TV Consumer Protection Act of 1991, that Gore introduced with Sens. Ernest Hollings, D-SC; Daniel Inouye, D-HI; and John Danforth, R-MO.

"Cable television consumers have made their voices heard. They're tired of higher and higher rates for service that gets more and more unreliable. President Bush cannot ignore their concerns or the pressure on their pocketbooks," said Gore. "The cable industry has put up enough obstacles and tried enough stalling tactics. It's time they faced facts and recognized their responsibility to their consumers."

This morning, Gore argued against the alternative and provisions he said would prevent the bill from encouraging competition in the industry. Currently, because of vertical

(MORE)

integration in the industry, companies that control cable distribution systems also control cable programming and discriminate against cable competitors such as satellite dish owners.

"It's very simple: the substitue tells the three million families who own satellite dishes -- and you've seen their homes back in the hollows and along the dirt roads in your states, on farms -- that they do not deserve the right to enjoy the benefits of new technologies," Gore said. "A vote for the substitute is a vote against all these 3.6 million satellite dish owners."

Gore estimated that more than 100,000 satellite dish owners live in Tennessee.

The bill now goes to the House for action.

##

tertainment and we are going to regulate it?

That is essentially what S. 12 suggests. It suggests that since Americans cannot be trusted to decide whether they want to buy a particular entertainment product, so Uncle Sam is going to decide for them and, in the process, is going to restrain investment.

But, even S. 12, which purports to regulate all of the services that consumers want is actually faking it. This is because while it suggests that it will provide broad protection, in effect, cable operators can retier because S. 12 only requires that you have a viewing package that reaches 30 percent of the viewing audience. Therefore, cable is going to be able to take its premium television shows and offer them on an ala carte basis—outside the regulated tier.

So any American citizen who thinks S. 12 is going to regulate all programming is wrong. It will not do that. It will, however, have a negative impact on that investment.

I am really having trouble understanding why it is that the Government has a compelling interest in regulating the rate for a pure entertainment package that any American can refuse. What happened to the market? We are the nation that is telling Eastern Europe, the former Soviet Union, and the rest of the world that the free market is the most effective way to ensure that consumers get the best products. Here we are stepping in once again to constrain the market forces right here at home.

People may say, wait a minute, Senator KERRY, are we going to have adequate protection for consumers in this substitute? After all, we keep hearing that the substitute is not a strong substitute. Well, Mr. President, the substitute takes 70 percent of what Americans watch via cable television today and regulates it. Seventy percent of what cable subscribers look at on TV will be regulated under the substitute, because 70 percent of what they watch are over-the-air broadcast signals.

Furthermore, we apply this rate regulation to virtually every cable system in America because we make the definition of effective competition tougher. We do not say six over-the-air broadcast signals are adequate. We say you have to have a multichannel alternative in your region, or your cable system is regulated. Therefore, 99 percent of America will be rate regulated.

Let me turn to customer service. We mandate the same service standards as S. 12. Additionally, our substitute does the same thing that S. 12 does on technical standards, exactly the same. It does the same thing that S. 12 does on home wiring. Finally, it does the same thing that S. 12 does on retransmission consent. We strengthen broadcasting.

I heard the Senator from Missouri say the alternative does not do anything for competition. Well, with retransmission consent and must-carry, you clearly are doing something for competition, because you are strengthening the ability of broadcasters to offer quality product to consumers.

I also heard the Senator from Missouri say that S. 12, by eliminating the 12-12-12 rule, is going to hurt competition. I disagree with that. If you eliminate the 12-12-12 rule, you are strengthening broadcasters' ability to compete because you are allowing them to reduce costs and increase advertising sales. And, this all can be done while preserving local diversity.

Our amendment also does the same thing as S. 12 does on multiple franchises. Local franchising authority cannot prevent second operators from offering an alternative service. In addition to that, we have a rural telephone exemption which allows the telephone companies to provide video programming in rural areas.

So there are only two real differences between the substitute and S. 12, and these two differences are on mandated access to programming and upper-tier rate regulation. These differences leave us with two choices. Choice No. 1: Do you want to require people to sell their programming to their own competitors? Choice No. 2: Do you want to have all video entertainment regulated in the United States or only the flow of information sufficient to guarantee competition? I think the choice is very clear. I reserve the remainder of my time.

Mr. INOUYE. Mr. President, I yield 20 minutes to the Senator from Tennessee.

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. GORE] is recognized for 20 minutes.

Mr. GORE. Mr. President, I wish to thank the distinguished chairman of the subcommittee and the manager of the bill for yielding me this time. I say to my colleagues that my voice is a little strained this morning, so I will just express the hope that I can make myself clear on this. I feel so strongly about it that I hope that will be possible.

I rise to oppose the Packwood-Wirth-Kerry substitute in the strongest possible terms.

My colleague from Massachusetts asked a moment ago what happened to the market. Well, what happened to the market is the market has been strangled by this monopoly. There is no market. There is a monopoly. There is no market because there is no competition. There is no competition because the Congress decreed that there shall be no competition for cable.

That is why we are here. It was a mistake. Some aspects of it were helpful. It is a reference to the 1984 Cable Act. But overall it went so far that the participants in the cable industry were tempted so many of them to take advantage of the monopoly by raising taxes, just time and time again, and turning a deaf ear toward service, and strangling any potential competition by using their leverage in the marketplace.

Yesterday my good friend, the Senator from Colorado, stated that the program access provisions of this bill have nothing to do with rates and service. Mr. President, as the committee has so thorougly determined over the past 6 years, and as the behavior of this industry has so dramatically demonstrated, the bill's program access provisions—and the competition it stimulates—has everything to do with cable rates. Competition holds rates down. When the competition is eliminated the rates go up. That is elementary and that is the reason why people are paying such high rates today.

We have heard references by the proponents of the substitute to the fact that there is no problem with cable rates. What is the big problem? What are we trying to remedy here? Come to some of the town hall meetings I have in Tennessee, or accompany the vast majority of Senators in this Chamber when they go back to their home States, and you will hear there is a problem. The rates have been skyrocketing.

Mayors have been besieged by their constituents asking what in the world can be done. Some out-of-State conglomerate comes in and uses junk bonds to buy up a local cable system and incurs an enormous amount of debt, and the only way they can finance it is by raising rates until the people just cannot stand it anymore.

S. 12 has a remedy for that situation and the preferred remedy is competition. That is the American way.

I was particularly struck, may I say, by the eloquent historical examples the Senator from Colorado chose to illustrate the problems within the communications industry when the incumbent, dominant player does everything in its might to shut out the new, upstart entrant. He used the example of AM radio shutting out FM, of VHF television shutting out UHF, of AT&T shutting out new long distance competitors such as MCI, of broadcasters shutting out cable, and of the steps the Congress and FCC took to ensure that the new entrant might have a chance to survive.

The Senator was exactly correct. But what he did not do was finish the portrait of anticompetitive behavior. That story has another chapter. What we now are facing is cable doing everything possible to shut out its competitors: satellite dishes, wireless, new direct broadcast satellite services.

The Senator's analogy was perfect. I could not have said it better. The Congress must protect these new entrants against unfair monopolistic exploitation of its dominance in this marketplace.

Let our colleagues make no mistake about what is being debated here. Do not have any misunderstanding about the substitute. By completely killing

off the program access provisions of S. 12, the Packwood-Wirth substitute entirely eliminates the potential for any competition whatsoever in the cable marketplace.

The cable industry is much more concerned about competition than about regulation. Given a choice they will say every time: Well, if we have to have something, give us some little regulation.

That is what the substitute does. Some little regulation. But they do not want competition. So that is why the substitute zeros in on the provisions of S. 12 which are designed to ensure competition, and they try to eliminate it altogether.

The substitute is a vote against competition and a vote to expand the monopoly stranglehold of companies like TCI which now hold consumers in its grip throughout the country.

As the chairman of the subcommittee and the ranking Republican on the full committee have so eloquently noted today and yesterday, the substitute waters down the ratepayer protections of S. 12, further exposing consumers to the rate-gouging practices of cable operators, practices which have so thoroughly been exposed not only by the Senate, but by the GAO, by the Federal Communications Commission, by the Justice Department, by the State attorneys general, and by many, many others.

But most importantly, and most troubling, the substitute completely eliminates the recognition provisions of S. 12 which will ensure that some modest measure of competition might rise.

I would like to briefly review how the program access provisions of S. 12 promote competition. These provisions are eliminated in the substitute.

First of all, the bill establishes the principle that program services like ESPN, CNN, USA, and others, must be made available to the 3.6 million families—mostly in rural areas—who have paid an average of about $3,000 each for hard-earned money to buy a home satellite dish and receiver. Most of these families live along roads cable has chosen not to serve, roads in West Virginia, roads in Tennessee, roads all over this country that do not have the population density to attract the cable investors and the new conglomerates using junk bonds who want to milk the profits out of those communities where there is enough of a population to get in there and really go to town.

What about these rural consumers? What would happen to them under the substitute? It is very simple: the substitute tells these 3.6 million families that they do not deserve the right to participate in the communications revolution, that they do not deserve the right to enjoy access to the kind of programming that is available in the cities, that they do not deserve the benefits of new communications technologies, some of which were made possible, I might add, by taxpayer investments in the space program. That is where these communications satellites come from. And we cannot stand by and see this cable monopoly just lay claim to this new technology which has the ability to compete with them and strangle it to prevent any kind of competition and any kind of service to the rural areas of my State and the other States with rural areas.

A vote for this substitute is a vote against these 3.5 million backyard satellite dish owners. We have heard from these folks before, when legislation has been before this body. They feel even stronger about it now than they did last year and the year before because they continue to face price discrimination by the cable-dominated programming services.

I would like to place in the RECORD, and I will ask for consent at the conclusion of my statement, a breakdown of where these families live: 113,000 in Tennessee alone, 85,000 in Missouri, 266,000 in Texas, 163,000 in Florida, 325,000 in California, and so on.

And mark my words, Mr. President, every single one of these satellite dish families is going to pay very close attention to this debate here today. A lot of them are watching it right now. A lot of them are following it very closely. They waited for years for some justice here and they know the only place they can find justice is on this Senate floor and with the Congress of the United States representing the American people. They have had it up to here because they have been victimized by this industry that has tried to completely cut them out.

And believe me they will know who stood up for them and who stood against them here today. They will know about this vote because it is the key vote for satellite dish owners and for others who want access to competitive services challenging the cable monopoly. It is the key vote for the Consumer Federation of America for similar reasons.

Let me continue by saying that the program access provisions state that if a satellite-delivered programming service is owned by a cable company, then it must not unreasonably refuse to offer that service to satellite dish distributors at fair terms.

We have had some references to the fact that we never make anybody sell to somebody they do not want to sell to. That is utter nonsense, Mr. President. If you have a supermarket chain and you have a food processor, and next door to the supermarket is a little mom and pop grocery store, if that supermarket chain attempts to use its market dominance to tell its wholesaler supplier: do not you serve my competition, the Government says you have to serve his competition, because if you cut them off and use your market power to force your competition out of business, it is a violation of the antitrust laws. We do that every day in this country in dozens and hundreds of industries. Here the antitrust laws have not been enforced. Here it requires action by the Congress to protect these rural consumers, to protect those in the cities who are denied access to competitive programming services.

S. 12 still allows a cable programmer to involve reasonable business requirements when deciding who should distribute its services. And it allows a programmer to charge rates that reflect true costs.

What S. 12 would not allow—and what the substitute would encourage and foster—is the tactic some cable-controlled programmers now use on satellite dish, and wireless cable distributors: that is, the practice of charging wholesale rates much greater than are charged to cable companies.

What this, in effect, does, Mr. President, is drive up rates for consumers who would choose competiting technologies such as satellite dishes, wireless, or potentially the new direct broadcast satellites [DBS]. Thus, any form of competition is stifled.

Let us look at exactly how this works:

Cable programming services—CNN, ESPN, HBO, and so on—place their channels on a satellite and make these signals available to cable operators. The cable company then pays the programmer a fee per subscriber.

If you live outside an area cable has chosen to serve, or if you simply do not like the service and rates of the local cable operator, you can spend several thousand dollars for a satellite dish, or in some communities subscribe to a wireless cable system. In a few years you may even be able to subscribe to a new high-powered DBS service which employs a very small dish you could put on your windowsill.

But even though you may be able to choose one of these alternatives, you are going to pay through the nose for that choice, because the prices distributors must pay to make those channels available to cables' competitors are much, much greater than the local cable operator pays.

Look at these specific examples, covering almost all the major programming channels, those which make up what most of us think of as cable:

Here is AMC/Bravo. Here is the price for a cable subscriber, 25 to 30 cents. Here is the price to satellite dish owners, $1.20 to $1.60.

Here is ESPN—54 cents to the cable subscriber, 28 cents to the satellite dish operator.

Look, you can go right down the list of these examples. In every case, the cost of distributing this in no way explains what is happening. In fact, the Justice Department studied that very question, the Bush Justice Department, and has issued a formal opinion saying that it does not justify the difference whatsoever.

In fact, the actual cost is lower to distribute the programming to satellite dish operators. That is just

common sense, Mr. President. The capital cost of building a cable distribution system is borne by the distributor. The capital cost of a satellite dish distribution system is borne by the consumer.

So why should the cost of delivering the program to a satellite dish operator be greater than the cost of delivering it to a cable customer?

It is no mystery. It is monopoly power. The cable industry so completely controls the programming services—first of all, by owning most of them, and, second, by providing 80, 90, 95 percent of the revenue for the rest—that they keep them under their thumb, and they tell them, "If you charge competitive rates to the satellite dish operators and the other competitors of cable, you may just have problems getting continued access to our cable networks." Since that is where most of their revenue comes from, they are scared, and so they do not provide the service at competitive rates.

Let us look at some other examples of this phenomenon.

Here in Netlink, $1.03 to the cable consumer, $3.40 to the satellite dish operator; Superstation, $5.90 to the cable operator, $2.50 to $3.10 to the satellite dish operator. MTV, 15 cents to 29 cents to the cable customer, $1.70 to $2.50 to the satellite dish operator.

Here are the programs distribution prices for vertically integrated channels.

The blue line shows the fantastic increase that is charged to the competitors of cable.

And here is a typical package, 61 percent higher for the competitor. And when you factor in the capital cost, with the consumers making the investment in satellite dish operation, in the satellite dish distribution system, their costs which they pay are 368 percent higher than the prices paid by the cable customer.

Mr. President, the real question here is not what is happening. We know what is happening, they are taking advantage of their monopoly power to charge as much money as they possible can. That is no mystery. The pattern is crystal clear. They charge one rate to cable and then a rate many times that to anybody who uses one of the competitors to cables.

The supporters of the substitute stated earlier this week that this wholesale price gouging has nothing to do with consumer prices; that consumers do not care about these practices. Believe me, Mr. President, they know. They knew when the scrambling started. They knew when the rates were set at a level many times higher than what the cable customers have to pay. All they have to do is look at their bills. And anybody who suffers the illusion that these folks do not know what is happening to them better take another look. They know exactly what is happening to them. And they know exactly what is being debated on the floor of this Senate Chamber right here today. And they are going to know who stood up for them and who stood up for the cable monopoly against them. It is just that simple, Mr. President.

I suppose the cable companies might say, "Well, those folks choose to live in the country * * * let them pay it."

Well, they are paying for it all right—through the nose they are paying for it, and they are fed up with it.

It is no secret why this pattern exists. For many years the cable operator feared competition from satellite dishes and forced the programming service to deny access to dish owners. That was an easy sell, frankly, since many of these programmers were owned by cable operators and still are.

Now, the more insidious discrimination against dish owners is in pricing, as we see in these dramatic price comparisons.

Mr. President, before I lose my voice completely, I point out that, while this rate picture reflects the information we were able to obtain about the cable and satellite dish marketplace, the same thing holds for wireless cable. And the same grim marketplace faces the new DBS services if we do not reject the Packwood-Wirth substitute and adopt the committee bill.

There is yet another dark cloud hanging over the future of competition in this industry. I mentioned DBS. Most of us are familiar with the traditional backyard dishes.

The new dishes are about this large. They are very small and very efficient.

But without legislation, this new technology will be smothered in the crib. It will be completely killed off. Because, in order to survive, the small dishes have to have fair and competitive access to programming and the cable industry wants to shut it down. They have organized themselves under the leadership of the powerful TCI to develop this PrimeStar Co., which is going to be their entity of DBS, and they are going to use that according to their plans to try to shut down competition also.

New DBS satellites will employ a small—as small as an 18-inch dish, making this technological breakthrough available to many millions of families who for whatever reason—zoning restrictions, cost, terrain—cannot purchase a large dish or subscribe to wireless cable.

But without this legislation, not only can DBS services expect discriminatory program access and pricing by cable-owned programs, they face a new kind of cartel by cable and their programming subsidiaries.

Mr. President, I would like to place in the RECORD a January 13, 1992, article from MultiChannel News, a trade publication. Entitled "Attorneys General Threaten PrimeStar Suit," this article chronicles a 29-State investigation of a cable MSO-controlled direct-broadcast satellite service called PrimeStar.

What has been alleged is that PrimeStar "may have violated antitrust laws by denying access to cable-owned programming to potential competitors, or providing access but only on prohibitive terms. The NAAG is concerned about this behavior because of its effects on other potential DBS entrants, as well as wireless cable and other cable competitors."

And who owns PrimeStar? No surprise: The 10 largest cable companies, led by the biggest and most powerful, TCI.

So the problem goes even deeper than the arbitrary pricing of cable programming for cable and satellite dish owners. It goes to the heart of the issue—cable's determination to go to any end to thwart competition.

I repeat, Mr. President: The program access provisions of this bill have everything to do with price and service.

The program access provisions of S. 12 are considered essential to sound policy governing this industry by the broadest possible spectrum of interests: the National Rural Electric Association, the Consumer Federation of America, the Wireless Cable Association, the Consumer Satellite Coalition, the National Farmers Union, the National Rural Telecommunications Cooperative, and many others.

Indeed, the Satellite Broadcasting and Communications Association, which includes not only satellite dish dealers and distributors but programmers such as HBO and Showtime, strongly supports the program access provisions of S. 12.

I quote from a letter from Mr. Charles Hewitt, president of SBCA, who states: The precept of program access "is very basic: Let competing technologies get to the 'starting line' with as few impediments as possible. After that, television viewing households can decide which means of video distribution will best serve their needs, and the marketplace will take care of the rest."

It could not be better said: Let competition exist and consumers will choose. That is the American way, the way embodied in this legislation.

The consumer abuses and anticompetitive behavior so prevalent within this industry will not go away. S. 12 addresses the problems in a direct, firm manner. The Packwood-Wirth substitute simply makes the problem worse, simply gives the cable industry an even heavier club to beat the competition into the ground.

I strongly urge our colleagues to reject the substitute.

I ask unanimous consent that the estimated number of satellite systems in every State be printed in the RECORD at this point, and that additional materials to which I have referred also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTIMATED NUMBER OF SATELLITE SYSTEMS, JANUARY 1, 1991

Alabama	76,700
Alaska	5,000
Arizona	47,000
Arkansas	52,500
California	325,000
Colorado	47,250
Connecticut	11,000
Delaware	6,500
District of Columbia	1,600
Florida	162,500
Georgia	82,250
Hawaii	1,100
Idaho	27,200
Illinois	88,400
Indiana	82,900
Iowa	51,800
Kansas	47,600
Kentucky	59,250
Louisiana	61,000
Maine	17,800
Maryland	31,400
Massachusetts	13,000
Michigan	120,000
Minnesota	47,000
Mississippi	49,900
Missouri	84,500
Montana	38,850
Nebraska	40,800
Nevada	29,800
New Jersey	20,000
New Hampshire	15,500
New Mexico	21,700
New York	119,500
North Dakota	14,900
North Carolina	139,500
Ohio	110,000
Oklahoma	56,700
Oregon	60,000
Pennsylvania	90,700
Rhode Island	3,600
South Carolina	54,400
South Dakota	16,500
Tennessee	113,600
Texas	265,800
U.S. Territories	10,400
Utah	20,400
Vermont	19,500
Virginia	75,000
Washington	68,600
West Virginia	42,000
Wisconsin	58,300
Wyoming	14,500

Source: Satellite Broadcasting and Communications Association.

[From Multichannel News, Jan. 13, 1992]

ATTYS. GEN. THREATEN PRIMESTAR SUIT

(By Rachel W. Thompson)

A nearly two-year-old antitrust investigation of PrimeStar Partners, the cable MSO-controlled direct-broadcast satellite service, has reached an extremely sensitive stage and could erupt into a lawsuit at any time.

Two high-level individuals working on opposite sides of one probe, by the National Association of Attorneys General, said serious settlement talks among NAAG officials and PrimeStar backers began in early December.

Those talks could collapse at any time, they said, and legal action would almost certainly result. The NAAG as an organization has no prosecutorial authority; rather, a lawsuit would be brought by a group of states.

The companies directly involved in the probe include nine top cable MSOs and a General Electric Co. satellite subsidiary GE Americom. The cable TV task force conducting the investigation consists of attorneys general from California, Massachusetts, Texas, New York, Ohio, Maryland and Pennsylvania.

The NAAG task force has concluded that the 10 companies may have violated antitrust laws by denying access to cable-owned programming to potential competitors, or providing access but only on prohibitive terms, sources said. The NAAG is concerned about this behavior because of its effects on other potential DBS entrants, as well as wireless cable and other cable competitors.

While a draft complaint has reportedly been drawn up, no details of its contents could be learned, nor is it clear what corrective steps NAAG members are seeking.

Several attorneys, and PrimeStar officials, declined comment on the situation.

"Every week that goes by makes it less likely there will be a lawsuit," commented one individual involved in the talks, who emphasized that it was impossible to predict an outcome.

"It really is an enormously sensitive situation," said another.

While the NAAG inquiry has focused on companies involved in PrimeStar, its scope is not limited to that entity's activities, sources said.

According to high-level sources, the National Cable Television Association was informed as recently as two months ago that it too was a target of the probe. The NCTA could be pulled in by virtue of having undertaken certain actions at the behest of its members.

It could not be determined whether the NCTA, which had no comment, was participating directly in the settlement talks.

The Department of Justice, which has been conducting a parallel inquiry, is monitoring the negotiations, but has not determined a course of action, sources said. However, they indicated that they believed the DOJ was less inclined to pursue action and would probably have dropped its inquiry if not for the states' actions.

A total of 29 states were represented, including the seven conducting the probe, at a one-day briefing by the cable task force in Chicago last Thursday that was designed to brief states that might want to join a lawsuit.

Another round of settlement talks is expected to take place mid-week in New York.

The NAAG and DOJ commenced parallel inquiries of PrimeStar in April 1990 after four U.S. senators sounded alarms about the venture's possible antitrust implications. Among the senators' concerns was the cable industry's extensive control over programming and the potential for PrimeStar MSOs to use unfair pricing against DBS competitors and others.

At the time, the Ku-band satellite service had positioned itself primarily as a delivery system for those homes that could not be reached economically by traditional cable systems and for whom larger C-band satellite dishes were not an option. Also, a consortium of Cablevision Systems Corp., NBC, News Corp. and Hughes Communications had formed the Sky Cable high-power DBS service.

PrimeStar Partners is controlled by Time Warner Inc.'s American Television & Communications Corp. and Warner Cable Communications Inc., Cox Cable Communications, Comcast Corp., Telecommunications Inc., Viacom Cable Inc., Continental Cablevision, NewChannel Corp., and GE Americom.

Separately, Viacom International CEO Frank Biondi disclosed during a Paine Webber meeting in December that Viacom has written off its investment in PrimeStar and intends to leave the partnership.

"We are still currently a partner in PrimeStar, but we are working out our exit," a Viacom spokeswoman confirmed last week."

Mr. GORE. Mr. President, one of the items I am including is an article from Multichannel News which refers to a lawsuit by State attorneys general threatened against this Prime Star Co. that is planned to be used by the cable industry to shut down direct broadcast satellites.

Let me just conclude briefly, Mr. President, by saying let us let competition exist and let us allow the consumers to choose. That is the American way. That is the way embodied in this legislation. The consumer abuses and anticompetitive behavior so prevalent in this industry will not go away unless S. 12 passes. I strongly urge our colleagues to reject this anticompetitive substitute, stand up for competition and the consumers by voting "no" on the substitute and voting "yes" on S. 12.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I yield myself a minute and a half. We have heard constant references to the Bush administration report, the Justice Department report. I want to read from the Justice Department report because nobody else has. It is not a Justice Department report: "The views expressed herein are not purported to represent those of the U.S. Department of Justice."

Moreover, in a very critical footnote on page 28:

> * * * although the best estimate of the market power effect is that it explains about half of the total price increase, the 95 percent confidence interval indicates the effect may be anywhere from close to zero to almost 100 percent.

That is one hell of a range—from close to zero to 100 percent. And the individual is not speaking for the Justice Department.

Mr. President, I ask unanimous consent this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARKET POWER AND PRICE INCREASES FOR BASIC CABLE SERVICE SINCE DEREGULATION, AUGUST 6, 1991

(By Robert Rubinovitz) [1]

ABSTRACT

Since the deregulation of rates for basic cable television service, increases in prices have outpaced the rate of inflation. This paper examines whether or not market power by cable systems explains the price increases since deregulation. A "quasi-supply" function for cable systems before and after deregulation is estimated and this

[1] Economist, Antitrust Division, U.S. Department of Justice. The views expressed herein are not purported to represent those of the U.S. Department of Justice. The author wishes to thank Jonathan Baker for many helpful discussions and comments, and Margaret Guerin-Calvert, Tim Brennan and Gregory Werden for comments on an earlier draft. Holly Burleson and Michael Duffy provided excellent research assistance in the preparation of this paper. All remaining errors are the responsibility of the author.