



# County Council of Howard County

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June 26 1996

Mr. Reed Hundt, Chairman  
Federal Communications Commission  
1919 M Street, NW Room 814  
Washington, DC 20554

**RE: Redlining/Failure to Serve by Open Video System (OVS) Providers  
CS Docket 96-46**

Dear Chairman Hundt:

We are very concerned about claims by potential OVS providers that they can "pick and choose" what areas to serve. Allowing this practice may lead to discrimination and redlining that will result in minority, low income and growing areas of our nation's jurisdictions from being served by an OVS provider.

We are particularly concerned about this where the OVS provider is the only land-line video provider. This may occur in a substantial number of our nation's communities, especially if cable television operators are allowed to switch to become OVS providers. The cable television operators, through the provision of telephone service, could claim that they are entitled to provide OVS service.

Also, the new Telecommunications Act allows telephone companies to buy out cable television systems in certain situations. The law of economics may result in only one video/data/telephone provider in a given area, which could well be an OVS provider. Thus, there is a substantial risk that the OVS provider could be the only wired, land-line video provider in many areas. If such a monopoly OVS provider has no restraints on where and whom it serves, it is likely to discriminate against, or fail to serve, large segments of our population.

There have been discrimination/failure to serve problems even in the cable television area. We are concerned that if the telephone companies have no restraints there could be similar problems here. We are also concerned about the problem in lower density suburbs on the edge of urban areas where the OVS provider may claim there is not sufficient density to warrant service.

Jurisdictions have classically addressed this issue as part of the just compensation they receive from cable television companies for using public rights-of-way. The public, through the local jurisdiction, is entitled to just compensation for the use of its property. This compensation includes not only money but requirements to serve all residents of a city or county, or serve all areas with a determined number of dwelling units per mile in exchange for the use of public property

DOCKET FILE COMMUNICATIONS

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Ronald S. Weinstein  
County Auditor



I strongly urge the Commission to prevent OVS from becoming a "redlining" service where large segments of our population are excluded. In this regard, I urge you to consider and adopt in your OVS rules the following recommendations:

First, it should set forth a minimum density requirement for service of ten dwelling units (occupied or unoccupied) per mile of street. All areas meeting this requirement would have to be wired for OVS service within two years. An OVS provider could deviate from this requirement only if it has obtained the advance concurrence of the local jurisdiction being served, and if the Commission approves such deviation in the certification process. Adopting a single standard would provide the OVS providers with a simple, clear test of general applicability, yet would require them to consult with local jurisdictions who, without question, are most knowledgeable as to local conditions in situations where they warrant deviations from this standard.

Second, the Commission should enunciate strong rules against discrimination on invidious grounds analogous to (but more extensive than) those set forth in Section 621(A)(3) of the Cable Act; and should make clear that violation of such provisions would automatically result in OVS certification being terminated and the operator becoming a cable television operator.

Third, the Commission should take strong action to prevent OVS operators from "redlining" cities with large minority populations. For example, it should prevent an OVS operator from electing to serve only the Maryland suburbs and not serving Washington, DC at all. Actions such as this are essential to assure that the nation's major urban centers with substantial minority populations are not denied service on racial, invidious or other self-serving grounds. The Commission should require an OVS operator, providing service in an area near a municipality with a significant minority or low income population, to start providing service to the latter municipality within two years of its starting to provide service to the nearby area. Only an absolute requirement such as this will prevent OVS operators from redlining many of this nation's cities. If OVS operators wish to have the benefits of relaxed regulation, they must accept the burden of strong measures against discrimination.

Per the Commission's *ex parte* rules, a copy of this letter is being provided to the Secretary for inclusion in the public record.

Sincerely,



Darrel Drown  
Chairman, Howard County Council

cc: Mr. Blair Levin  
Ms. Suzanne Toller  
Ms. Mary McManus  
Mr. William F. Caton  
Congressman Roscoe Bartlett  
Congressman Benjamin L. Cardin  
Senator Barbara A. Mikulski  
Senator Paul S. Sarbanes