



Preserving Effective Competition: The Importance of Protecting Pay TV Customers

- Three primary reasons why the FCC should not deem the entire nation “effectively competitive” for pay TV
 - Congress just directed the FCC in STELAR not to make additional changes beyond administrative relief for small cable operators
 - Wholesale deregulation threatens a rise in already soaring cable rates, harming those least able to afford it
 - Cable companies have far greater resources than LFAs to pursue effective competition determinations; a flip gives far too much power to already dominant cable operators

Congress's Direction Is Clear



SEC. 111. ADMINISTRATIVE REFORMS TO EFFECTIVE COMPETITION PETITIONS.

Section 623 of the Communications Act of 1934 (47 U.S.C. 543) is amended by adding at the end the following:

“(o) **STREAMLINED PETITION PROCESS FOR SMALL CABLE OPERATORS.**—

“(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this subsection, the Commission shall complete a rulemaking to establish a streamlined process for filing of an effective competition petition pursuant to this section for small cable operators, particularly those who serve primarily rural areas.

“(2) **CONSTRUCTION.**—Nothing in this subsection shall be construed to have any effect on the duty of a small cable operator to prove the existence of effective competition under this section.

“(3) **DEFINITION OF SMALL CABLE OPERATOR.**—In this subsection, the term ‘small cable operator’ has the meaning given the term in subsection (m)(2).”.



Gateway to Higher Cable Rates

- When FCC makes an effective comp finding, local franchise authorities can no longer keep cable rates in check
- The cable industry also argues that, where there is effective comp, they no longer must include the most-watched stations or public, educational and governmental channels on a consumer's basic tier
 - This would allow them to significantly raise consumer rates for the most-sought-after broadcast TV programming
- FCC: average basic tier is \$22.78; expanded basic is three times that at \$66.61



Rising Rates for Those Who Can Least Afford It?

Who relies most on competitive rates and the basic tier?

- Economically disadvantaged Americans
 - More than half of pay TV basic tier subscribers (54%) have an annual income under \$35,000
- Communities of color
 - 23% of Hispanic pay TV households and 22% of African American pay TV households subscribe to the basic tier
 - Roughly 1/3 of all basic tier subs are Hispanic or African American
- Older Americans
 - 53% of basic tier homes skew older (i.e., householders 55+)



LFAs Remain At A Disadvantage

- In the FCC's own words:
 - “Cable operators are in a better position than franchising authorities or the FCC to ascertain their competitors’ availability and subscribership.”*
 - “We are mindful of franchising authorities’ concern that they do not have access to the information or the resources necessary to show the absence of effective competition as a threshold matter of jurisdiction.”*
- Has that balance of power changed? No.

**In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992 Rate Regulation (1993)*

Compare the Parties



Market Cap
\$38
Billion



Market Cap
\$20
Billion

VS.

- Swinomish Tribal Community, WA
- The Cobb County Cable TV Franchise Authority
- Mt. Hood Cable Regulatory Commission
- Town of Clarksburg, MA



There Are Better, Lawful Solutions

- Alliance for Community Media, Alliance for Community Television, Common Cause, National Association of Broadcasters and Public Knowledge recommended the following common sense administrative reforms in line with STELAR:
 - Eliminate elements of an effective comp showing that are no longer in dispute
 - Reiterate that competitors must timely respond to requests for information and use enforcement authority to ensure compliance with this requirement
 - Automatically grant unopposed petitions for effective competition once the time for filing oppositions has elapsed
 - Adopt a time limit for FCC's review of petitions for effective competition, even where the petitions are opposed



The Public Has Taken Notice

Numerous public interest and governmental groups have already filed to ask the FCC not to take the drastic step of defining the whole country as effectively competitive for the cable industry, including:

- Alliance for Community Media
- American Community Television
- Consumer Action
- The Greenlining Institute
- Media Alliance
- National Association of Black-Owned Broadcasters
- National Association of Telecommunications Officers and Advisors
- National Hispanic Media Coalition
- Public Knowledge
- United Church of Christ, Office of Communication Inc.



The Senate Has Spoken

Fourteen Democratic U.S. Senators have weighed in with the FCC asking it not to proceed on its current course:

Senator	Senator
Franken	Klobuchar
Merkley	Markey
Wyden	Sanders
Reed	Udall
Whitehouse	Brown
Baldwin	Heinrich
Warren	Leahy