

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of:	)	
	)	
Implementation of the Cable	)	
Television Consumer Protection	)	
and Competition Act of 1992	)	
	)	CS Docket No. 01-290
Development of Competition and Diversity	)	
in Video Programming Distribution:	)	
Section 628(c)(5) of the Communications Act:	)	
	)	
Sunset of Exclusive Contract Prohibition	)	

**REPLY COMMENTS  
of the  
ORGANIZATION FOR THE PROMOTION AND  
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES**

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these reply comments in the above-noted proceeding.<sup>1</sup> OPASTCO is in agreement with those commenters that support retaining the exclusive contract prohibition furnished by the Television Consumer Protection and Competition Act of 1992 (Cable Act).<sup>2</sup> OPASTCO is a national trade association representing over 500 small telecommunications carriers serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve over 2.5 million customers. All OPASTCO

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<sup>1</sup> *Notice of Proposed Rulemaking*, CS Docket No. 01-290, FCC 01-307, 66 FR 54972 (October 31, 2001) ("*NPRM*").

<sup>2</sup> 47 U.S.C. §548(c)(2)(D).

members are rural telephone companies as defined in 47 U.S.C. §153(37).

Nondiscriminatory access to programming content is crucial to small companies that offer video services to rural consumers. In addition to serving as incumbent local exchange carriers (ILECs), OPASTCO members provide a wide variety of telecommunications services in sparsely populated, high-cost communities. Half of OPASTCO members provide cable television, which can also be used to provide advanced services. Using a variety of delivery methods, nearly 60 percent of OPASTCO members provide broadband services. A number of these carriers deliver video services via digital subscriber line (DSL) technologies.

Some OPASTCO members provide coaxial cable service (often including high-speed or advanced data services) in small, high-cost communities that are often not lucrative enough to attract larger providers. Others offer similar services via twisted-pair copper wire either in their telephone service area, or in neighboring territories where they have overbuilt facilities in order to provide superior service to consumers. Some members run fixed wireless operations. While the technologies and market situations vary, one factor remains constant: without access to programming content under equitable terms and conditions, these small companies cannot fulfill consumer demand.

Various commenting parties illustrate the need to retain the nondiscriminatory provision of the Cable Act. For example, the American Cable Association states that in order to ensure that consumers of small, independent providers have access to programming at “fair and reasonable prices,” the Commission should not sunset this provision.<sup>3</sup> The Competitive Broadband Coalition asserts that sunsetting the provision

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<sup>3</sup> American Cable Association comments (fil. Dec. 3, 2001), p. 8.

now would be premature, because “the ten-year initial term for the exclusivity prohibition originally envisioned by Congress in 1992 was unduly optimistic.”<sup>4</sup> The Rural Independent Competitive Alliance accurately notes that retention of the nondiscriminatory access provision would help to “level the playing field” for small video providers, particularly those in rural areas.<sup>5</sup>

Smaller companies can often focus on customer service in rural areas far more effectively than large national conglomerates located hundreds of miles away. OPASTCO members, with their roots in telephony, are at times able to offer affordable service packages incorporating convergent technologies. For example, one popular option allows caller ID information to be viewed on a television screen, an offering not yet available to many subscribers of larger service providers. However, attentive customer service, innovative service options, and even lower prices do not make video services attractive to customers if desirable programming content is not available.

Therefore, OPASTCO concurs with those commenters who urge the Commission to retain the prohibition against exclusive contracts as provided for under the Cable Act.

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<sup>4</sup> Competitive Broadband Coalition comments (fil. Dec. 3, 2001), p. 9.

<sup>5</sup> Rural Independent Competitive Alliance comments (fil. Dec. 3, 2001), p. 3.

Respectfully submitted,

**THE ORGANIZATION FOR THE PROMOTION  
AND ADVANCEMENT OF SMALL  
TELECOMMUNICATIONS COMPANIES**

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