

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities)	GN Docket No. 00-185
)	
Internet Over Cable Declaratory Ruling)	
)	
Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities)	CS Docket No. 02-52
)	

Initial Regulatory Flexibility Analysis

Comments of the



On behalf of more than 950 independent cable companies, ACA submits these comments in response to the Initial Regulatory Flexibility Analysis (“IFRA”) appended to the NPRM.¹ Together, ACA members serve more than 7.5 million cable subscribers, primarily in smaller markets and rural areas. ACA members range from family-run cable businesses serving a single town to multiple system operators that focus on smaller markets. About half of ACA’s members serve less than 1,000 subscribers. All ACA

¹ *In the Matter of Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling; and Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities; Notice of Proposed Rulemaking*, FCC 00-77 (rel. March 15, 2002) at ¶¶ 113 – 125, “Initial Regulatory Flexibility Act Analysis.”

members face the challenges of building, operating, and upgrading broadband networks in smaller markets and rural areas.

The record before the Commission shows that continued regulatory restraint is essential in preserving and promoting cable modem service deployment by smaller cable companies. The impact on hundreds of small cable businesses of mandatory open access regulations would be severe. Indeed, the imposition of such a burden would lead to chilled investment and stalled broadband deployment, endangering the viability of small communications businesses.

In ACA's comments, we focus on the following key issues:

- The Commission's policy of regulatory restraint has continued to promote broadband deployment in smaller markets.
- Mandated multiple ISP access in smaller markets would chill investment and stall broadband deployment.
- In smaller markets, the cost/benefit analysis weighs overwhelmingly against mandated multiple ISP access.
- If the Commission concludes that concerns in larger markets and with larger companies warrant some measure of regulation of cable modem service, it should adopt an exemption for small cable operators.

The Regulatory Flexibility Act ("RFA") requires the Commission in its initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities.² The IRFA must contain a description of any significant alternatives to the proposed rule that would accomplish the stated objective of the statute and that would minimize any significant economic impact of the proposed rule on small entities.³ An example of an alternative includes an "exemption from coverage of the rule, or any part

² 5 USC § 603(a).

³ 5 USC § 603(c).

thereof, for such small entities.”⁴ ACA’s Comments propose an exemption consistent with small cable system relief in other areas.

The Commission has a statutory obligation to consider the impact any Commission action would have on small entities. Economic realities require the Commission to establish an alternative treatment for small cable companies. Because of the impact to small cable as discussed above and in ACA’s Comments, the Commission must address these issues and include a comprehensive discussion of the impact its actions will have on small cable in its Final Regulatory Flexibility Analysis.

Respectfully submitted,

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061702 ACA IRFA Comments CS Docket 02-52

⁴ 5 USC § 603(c)(4).