



EX PARTE

December 12, 2006

Chairman Kevin Martin
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket No. 05-311

Dear Chairman Martin:

We write on behalf of independent content providers who stand ready to provide the American public with a more diverse set of viewpoints and information as a result of new entry into the video distribution market. We strongly urge the Commission to act now in order to hasten competitive entry into the video market by addressing problem areas with the current local franchising process that delay or prevent video competition.

There is an urgent need for new competitors in the video distribution market. Not only have cable prices been rising at alarming rates over the past decade but incumbent cable operators are stifling programming diversity and localism. Independent networks, as a group, are excluded under the current structure.

Recent research indicates that under the current market structure, the top video distribution networks carried—on a non-premium, national basis—less than 1% of channels with no media affiliation. A number of studies, including one by the GAO as well as academic studies, confirm that the top cable operators are much more likely to carry their own affiliated channels than independents. At the same time, independent channels have been shown to cost less than 1/3 of what affiliated channels cost. So independent channels apply downward pricing pressure on what the consumer pays. The best way to ensure diversity of information sources, lower prices for cable TV, higher quality programming and more consumer choice is to create an environment that allows for the rapid deployment of more platforms and greater competition which will also create more competition in the content space.

New entry into the video market will give independent programmers significant, additional opportunities for carriage. First, many new entrants, including the traditional telephone companies, are building new fiber optic networks, which have the capacity for carriage of a greater number of channels than do networks currently used by incumbent cable operators. Second, most new entrants do not own programming and, therefore, do not have the incentive to discriminate against independent

programmers in making carriage selections. Instead, these providers have a strong incentive to offer the diverse programming of independent content providers in order to differentiate themselves and to better compete against incumbent cable providers. Making such programming available to the public is important to our democracy. The carriage of independent content providers increases the diversity of information sources and contributes to ideas in the marketplace.

New entrants, unlike their cable predecessors, are showing a willingness to carry such important content. Adopting regulations that encourage rapid new entry into the video market will promote programming diversity and localism. We, therefore, encourage you to act now to address the aspects of the current local franchising process that frustrate the pro-competitive mandate of Section 621 and that delay or prevent more widespread video competition and broadband deployment. Taking this vital step will help ensure that independent content providers have the opportunity to contribute their valuable voice to the marketplace of ideas.

Sincerely,

Julia Johnson

Julia Johnson
Chairwoman
Video Access Alliance