

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

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

COMMENTS OF  
KITSAP COUNTY  
IN RESPONSE TO THE FURTHER NOTICE  
OF PROPOSED RULEMAKING

**Kitsap County** submits these comments in response to the Further Notice of Proposal Rulemaking, released March 5, 2007, in the above-captioned rulemaking (“Further Notice”).

1. **Kitsap County** is the local franchising authority for all of the unincorporated areas of Kitsap County. There are **two** franchised cable operators within our jurisdiction. Those cable operators, along with the current expiration dates of their franchises are: Comcast of Washington, 15 April 2011 and Wave Broadband, 24 October 1999.

2. We support and adopt the comments of the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, the Alliance for

Community Media, and the Alliance for Communications Democracy, filed in response to the Further Notice.

3. We oppose the Further Notice's tentative conclusion (at ¶ 140) that the findings made in the FCC's March 5, 2007, Order in this proceeding should apply to incumbent cable operators, whether at the time of renewal of those operators' current franchises, or thereafter. This proceeding is based on Section 621(a)(1) of the Communications Act, 47 U.S.C. § 541(a)(1), and the rulings adopted in the Order are specifically, and entirely, directed at "facilitat[ing] and expedit[ing] entry of new cable competitors into the market for the delivery of video programming, and accelerat[ing] broadband deployment" (Order at ¶ 1).

4. We disagree with the rulings in the Order, both on the grounds that the FCC lacks the legal authority to adopt them and on the grounds that those rulings are unnecessary to promote competition, violate the Cable Act's goal of ensuring that a cable system is "responsive to the needs and interests of the local community," 47 U.S.C. § 521(2), and are in conflict with several other provisions of the Cable Act. But even assuming, for the sake of argument, that the rulings in the Order are valid, they cannot, and should not, be applied to incumbent cable operators. By its terms, the "unreasonable refusal" provisions of Section 621(a)(1) apply to "additional competitive franchise[s]," not to incumbent cable operators. Those operators are by definition already in the market, and their future franchise terms and conditions are governed by the franchise renewal provisions of Section 626 (47 U.S.C. § 546), and not Section 621(a)(1).

5. We strongly endorse the Further Notice’s tentative conclusion (at para. 142) that Section 632(d)(2) (47 U.S.C. § 552(d)(2)) bars the FCC from “preempt[ing] state or local customer service laws that exceed the Commission’s standards,” and from “preventing LFAs and cable operators from agreeing to more stringent [customer service] standards” than the FCC’s.

Respectfully submitted,

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**George F.L. Geyer**  
**Cable Franchise Manager**  
**Kitsap County**