

November 20, 2006

Chairman Kevin Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: *Annual Assessment of the Status of Competition in the Market for the  
Delivery of Video Programming* MB Docket Nos. 05-255, 06-189

*In re Leased Access Development of Competition and Diversity*  
MB Docket No. 07-42

Dear Chairman Martin:

The United States Conference of Catholic Bishops (USCCB), the Office of Communication of the United Church of Christ (UCC), and the National Hispanic Media Coalition (NHMC), take this opportunity to applaud your willingness to take on the market power of the cable industry. We urge you and your fellow commissioners to stand firm in the face of the enormous pressure the cable industry has brought to bear against you. As advocates who have long asked for meaningful ownership limits on cable as well as other media, we know that your proposed action next week is long overdue. Media Access Project and other activists first asked the FCC to make this finding in 2002, and we hope to see the FCC finally recognize the 70/70 threshold passed in the pending *MVPD Competition Report*.

The cable industry has too long gone unchecked; the currently law has gone too long unenforced. As shown by both the Media Access Project and separately by Consumers Union, Consumer Federation, and Free Press, the cable industry long ago passed the 70% threshold Congress established as the level of market power triggering a need to regulate to ensure diversity of voices. As documented in the record by the Black Television News Channel, the Community Broadcasters Association, the Hallmark Channel, and others, cable operators have used their market penetration of over 70% to shut out independent voices, capture programming for their own rather than give carriage to independents, and reduce the access that religious, ethnic and other programmers should enjoy under the laws passed by Congress.

The cable industry has been able to use its power to prevent independent programmers from using tools that are supposed to increase diversity of voices. For example, as chronicled by USCCB and UCC in their comments in Docket No. 07-42, Comcast and other cable operators routinely discourage members of the public from purchasing time to air their programming on cable, in violation of the Cable Act and Commission rules. When, after much persistence, USCCB finally received rate information, the costs were prohibitively expensive. Even broadcasts of Sunday Masses, a service media conglomerates used to provide to their viewers for free, would quickly exhaust the budget of the average diocese for its media outreach.

Similarly, NHMC and CaribeVision have explained that cable operators routinely carry – and even pay for – generic Spanish language programming that originates in places such as Mexico and Venezuela, while refusing to carry programming produced in the United States for the diverse audiences that make up the Hispanic community. CaribeVision, for example, carries programming that focuses on the Caribbean community here in the United States, producing local programming that reinforces positive messages that highlight the needs and triumphs of this underserved community.

It is profoundly unfortunate that, at the very moment the Commission stands poised to address these very real and well documented problems arising from cable market power, that this ruling is being linked to the “a la carte” programming proposal. While the civil rights community has taken differing positions on a la carte, your current proposal to accurately count and appropriately cap the size of the cable industry is separate from that proposal. Many important diversity objectives can be obtained under this plan, irrespective of whether a la carte is adopted. We take you at your word, however, that you do not intend to use these proceedings to advance an a la carte agenda. Given the long history of the cable industry keeping independent and diverse voices off the air, we see no reason to side with them now when the Commission stands poised to address their abuses. You and your fellow commissioners should ignore this last minute effort to obscure the real problems of cable market power with distractions and rhetorical tricks.

To conclude, Pope Benedict XVI has warned against the “distortion that occur[s] when the media industry becomes self-serving or solely profit-driven, losing the sense of accountability to the common good .... As a public service, social communication requires a spirit of cooperation and co-responsibility with vigorous accountability of the use of public resources and the performance of roles of public trust ..., including recourse to regulatory standards and other measures or structures designed to effect this goal.” (Message of the Holy Father Benedict XVI for the 40<sup>th</sup> World Communications Day, The Media: A Network for Communication, Communion and Cooperation, Jan. 24, 2006). No industry better demonstrates the truth of this statement than the cable industry. That an industry that has in the last seven years virtually eliminated independent voices from the television screen should cry “foul” when the Commission seeks to enforce the law against them is the height of hypocrisy.

We may not fully agree with your whole media policy agenda, but we are very pleased that you have taken up this particular proposal that has languished for so long.

Sincerely,

\_\_\_\_\_/s/\_\_\_\_\_  
Cheryl Leanza  
Managing Director  
Office of Communication of the United Church of Christ

\_\_\_\_\_/s/\_\_\_\_\_  
Katherine G. Grincewich  
Assistant General Counsel  
United States Conference of Catholic Bishops

\_\_\_\_\_/s/\_\_\_\_\_  
Alex Nogales  
President  
National Hispanic Media Coalition

cc: Commissioner Copps  
Commissioner Adelstein  
Commissioner Tate  
Commissioner McDowell