

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

In the Matter of)	
)	
Implementation of Section 304 of the Telecommunications Act of 1996)	CS Docket No. 97-80
)	
Commercial Availability of Navigation Devices)	
)	PP Docket No. 00-67
Compatibility Between Cable Systems and Consumer Electronics Equipment)	

REPLY COMMENTS OF MONTGOMERY COUNTY, MARYLAND

Montgomery County, Maryland (the “County”), submits these reply comments in response to the Commission’s Fourth Further Notice of Proposed Rulemaking (the “FNPRM”),¹ specifically to address issues raised by certain commenters on the Commission’s proposals concerning CableCARD pricing and billing.² As described more fully below, the County largely disagrees with the position taken by cable operators such as Comcast, Verizon, and Cox, that additional action by the Commission on CableCARD pricing and billing matters is unnecessary,³ and generally supports the comments and proposed rule presented jointly by the

¹ *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment*, Fourth Further Notice of Proposed Rulemaking, CS Docket 97-80, PP Docket 00-67, FCC 10-61 (rel. April 21, 2010) (“FNPRM”).

² FNPRM at ¶ 15, and Appendix A, Proposed Rule § 76.1205(b).

³ Comments of Comcast Corporation at 24-27 (filed June 14, 2010); Comments of Verizon at 5-7 (filed June 14, 2010); Comments of Cox Communications, Inc. at 14-17 (filed June 14, 2010).

Consumer Electronics Association and the Consumer Electronics Retailers Coalition.⁴ Further, the County strongly recommends that the Commission take additional action to foster a transparent and competitive market in interactive set top box equipment now, even as it moves forward on its separate inquiry into a successor technology such as the “All VID” adapter.

The cable industry is right about one thing: CableCARD technology is not viable. The inability to access interactive features such as use of on-screen electronic program guides, video-on-demand, or to purchase pay-per-view movies renders CableCARD technology obsolete. There is no question that the Commission needs to work expeditiously to develop a successor technology. This, however, does not mean that there would be no value to improving the CableCARD rules in the interim. To the contrary, the County believes that the Commission should do two things immediately. First, CEA/CERC’s proposed §76.1205(b) should be adopted because the principles embodied in the rule offer a sound model that can be readily adapted for the successor technology. Second, the Commission should provide subscribers with immediate relief by creating an additional rule to require cable operators to offer existing subscriber equipment for sale now.

The County remains concerned about the significant equipment lease fees that cable providers charge to consumers, and the lack of alternatives, such as the ability of consumers to purchase necessary equipment. Concerns about equipment leasing fees were communicated to the Commission last year in the County’s comments in response to the Commission’s Supplemental Notice of Inquiry concerning its Annual Assessment of the Status of Competition

⁴ Comments of the Consumer Electronics Association and the Consumer Electronics Retailers Coalition at 10-12, and Appendix A, Proposed Rule § 76.1205(b) (filed June 14, 2010) (“CEA/CERC”).

in the Market for Delivery of Video Programming.⁵ For consumers, the introduction of digital cable and digital encryption now means that they must rent a set top box for every television in the home. Thus, equipment costs may add an additional 6 to 62 percent to the cost of cable service.⁶

To address this concern, earlier this year, the County and the Maryland Office of the Attorney General discussed with Commission staff a potential state-level legislative interim alternative (Maryland House Bill 1203 or H.B. 1203) that would require cable operators to offer their cable converter boxes for sale to subscribers, and prohibit discrimination on the price of cable service based on whether the subscriber owns, leases or rents the cable converter box.⁷ Offering subscriber equipment for sale now would enable the Commission to gauge consumer demand, and would provide immediate relief to consumers by allowing them the option to purchase needed equipment and stop paying monthly equipment lease fees, just as they are able to do now with cable modems.

The various cable providers in the County and environs (RCN, Verizon, Cox) charge consumers a monthly rental fee for each CableCARD in the range of \$1.50 to \$3.99.⁸ Thus, subscribers in Montgomery County are annually paying between \$18.00 and \$47.88 for their CableCARDS. These fees are paid month after month, year after year, to use a CableCARD, even though the purpose of purchasing a CableCard-ready device is to stop paying monthly equipment fees. Consumers who want to use interactive features must rent equipment and pay

⁵ *Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming*, Supplemental Notice of Inquiry, MB Docket No. 07-269 (rel. April 29, 2009); Comments of Montgomery County, Maryland (filed July 29, 2009), attached hereto as Exhibit A.

⁶ Id. at 7, Table 3.

⁷ Maryland House Bill 1203 is attached hereto as Exhibit B.

⁸ RCN \$1.50; Comcast \$1.75; Cox \$1.99; Verizon \$3.99. We note that Comcast does not charge for the first CableCARD per outlet. Comcast Comments at 24.

between \$3.40 and \$15.99 per month per set top box, or annually pay between \$40.80 and \$191.80 *per television* to watch cable service. Given these facts, many consumers might find it more economically desirable to purchase their existing cable operator set top equipment if operators were required to offer them for sale.

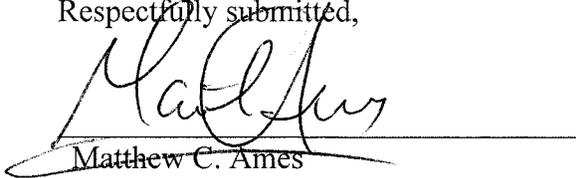
Consequently, while the County supports the introduction of line item billing to improve disclosure, it is even more important that the Commission allow the purchase option. Indeed, the Commission could go further to investigate and consider whether it is even appropriate for providers to be charging an additional fee for security equipment at all. Charging an additional fee for security equipment (rather than treating security as an integral part of the service) undercuts the goal of allowing consumers an alternative to paying monthly equipment rental fees. Moreover, the fact that a large provider like Comcast does not charge for the first CableCARD per outlet suggests that security costs are already built into the cost of service.

In summary, the County believes that the Commission should move quickly to implement a successor technology to CableCARD. In addition, because subscribers have been waiting for some form of competitive pricing for the past thirteen years, and because under the Commission's timetable they will be waiting at least several more years for the new proceeding to bear fruit, some form of relief is required now. For that reason, the County supports improvements to the CableCARD rules and urges the Commission to consider going even further to mandate a sale option and to consider whether it is appropriate for providers to charge consumers for security-related equipment. The County believes that the Commission has given the cable industry ample opportunity to comply with the statutory mandate, and consumers should not have to wait for a successor technology to CableCARD to be introduced in order to enjoy the benefits of competition.

CONCLUSION

Montgomery County urges the Commission to act now to adopt rules to improve transparency in CableCARD pricing and billing, and to promote a competitive equipment market.

Respectfully submitted,



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June 28, 2010

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

In the Matter of

Annual Assessment of the Status of Competition
in the Market for Delivery of Video Programming

MB Docket No. 07-269

COMMENTS OF MONTGOMERY COUNTY, MARYLAND

Summary

Montgomery County, Maryland (the “County”), submits these comments in response to the Commission’s Supplemental Notice of Inquiry (the “Supplemental NOI”),¹ to emphasize two points: first, the rates paid by subscribers for cable service continue to increase even in the face of competition; and second, those rates must be considered together with the very high rates that operators charge for equipment needed to obtain the service. Viewing the first in isolation from the second does not actually reflect the effect on consumers, and the effect of high equipment rates is underscored by the fact that consumers have no competitive alternatives for acquiring such equipment. The County also restates its concerns regarding the effects on consumers of the bundling of voice, video and data services, as discussed in its earlier comments in this docket.

¹ *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Supplemental Notice of Inquiry, MB Docket 07-269 (rel. April 9, 2009). The Supplemental NOI asked for information as of June 30, 2008, and June 30, 2009, on the same issues raised in the preceding Notice of Inquiry in this docket, *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Notice of Inquiry, MB Docket 07-269 (rel. Jan. 16, 2009) (the “NOI”).

I. RATES FOR CABLE SERVICE CONTINUE TO INCREASE UNCHECKED.

The NOI requested information on the prices charged for various cable programming packages.² The rates charged by the three providers currently serving Montgomery County residents – Comcast, RCN and Verizon – appear in Table 1. As described in the County’s comments of May 20, 2009, in this docket, and further illustrated in Table 1, the rates paid by subscribers for cable television services continue to increase. Notwithstanding the findings of the Commission, and arguments from providers that wireline competition “is the only form of competition that effectively restrains incumbent cable operators’ prices,”³ the County’s experience shows that wireline competition does not restrain rates. For example, even though Comcast must compete with two wireline providers, Comcast’s rate for basic service in the County increased by over 11% between 2007 and 2009 and its rate for the cable programming services tier increased by 9%.

Table 1 – Cable Service Rates in Montgomery County⁴

	2007	2008	2009	2007-09 % Increase
Comcast				
Basic	\$17.30	\$17.25	\$19.25	11.3
Expanded Basic	\$58.10	\$60.35	\$63.30	9.0
RCN				
Basic	n.a.	n.a.	\$17.95	n.a.
Expanded Basic	\$53.95	\$56.94	\$61.44	12.2
Verizon				
Basic	\$12.99	\$12.99	\$12.99	0
Expanded Basic	\$39.99	\$47.99	\$47.99	20.0

n.a. = price not available.

² NOI at ¶ 4.

³ Comments of AT&T at 2-3 (filed May 20, 2009).

⁴ Rates listed are those in effect on June 30 of each year.

Table 1 also shows that the competitors do not seem to be affected by competition any more than incumbents. Verizon has held its basic rate steady since 2007, but it has raised its expanded basic rate by 20% in just two years. In addition, Verizon recently informed the County that it will increase its rate for expanded basic service from \$47.99 to \$57.99 effective October 1, 2009. This will amount to a 45% rate increase in less than three years, and a year-over-year increase of 20.8%. And RCN's rate has increased by 12.2% since 2007.

The cable industry attempts to justify rate increases in excess of the general inflation rate by pointing to the investment the industry has made in new technology in response to competition, arguing that subscribers are getting more for their money.⁵ This is beside the point, however, because the industry has made no attempt to prove that there is a clear or measurable relationship between those expenditures and what subscribers are paying. What is clear and measurable is that subscribers are paying more and more, with no end in sight. As the County discussed in detail in earlier comments in this docket, a fully competitive market for cable services does not exist in Montgomery County, and if it does not exist there, then it is unlikely to exist anywhere.⁶ The Commission needs to reconsider both its assumptions and its policies.

II. AS CABLE OPERATORS CONVERT TO ALL-DIGITAL TECHNOLOGY, THE COMMISSION MUST LOOK CLOSELY AT EQUIPMENT RATES.

The NOI requested information on the prices charged for equipment needed to receive cable services.⁷ Montgomery County's experience shows that head-to-head competition is not restraining rates for cable equipment any more than it is holding down monthly service rates. Furthermore, the effect of equipment rates on the total price a subscriber pays can be significant,

⁵ NCTA Comments at 24 (filed May 20, 2009).

⁶ Montgomery County Comments at 5-15 (filed May 20, 2009).

⁷ NOI at ¶ 4.

yet the Commission's discussion of cable rates in recent years has paid little attention to equipment rates. For example, the Commission's most recent Report on Cable Industry Prices⁸ devotes only a single paragraph to equipment prices, and does not discuss the effects of the price of mandatory equipment rental on the total price paid by subscribers. Nor does the most recent annual report on the state of competition in the video programming market discuss the effects of equipment prices on subscribers.⁹

The Commission in recent years may not have considered equipment prices to be a significant issue, because equipment rates have been relatively low. Of course, those rates have been low largely because they have been regulated. Today, however, fewer and fewer jurisdictions are able to regulate rates, as the Commission has, with few exceptions, granted petitions for findings of effective competition in community after community. In any event, regardless of the reason, subscribers in Montgomery County are paying substantial amounts to rent equipment, and recent trends suggest subscribers will continue to pay substantial amounts for equipment that they can obtain from no other source.

The trend toward higher charges for equipment is especially troubling because in 1996 the Commission was directed by Congress to create a competitive market for navigation equipment, but thirteen years later has yet to do so.¹⁰ The County concurs with the comments filed earlier in this docket by Verizon (standards for navigation devices should not rely on cable-

⁸ *Implementation of Section 3 of the Cable Television Consumer Protection & Competition Act of 1992; Statistical Report on Average Rates for Basic Service, Cable Programming Services, and Equipment*, Report on Cable Industry Prices, MM Docket No. 92-266 (rel. Jan. 16, 2009, at ¶ 45).

⁹ *Annual Assessment of the State of Competition in the Market for the Delivery of Video Programming*, Thirteenth Annual Report, MB Docket No. 06-189 (rel. Jan. 16, 2009).

¹⁰ Section 629 of the Communications Act was added by the Telecommunications Act of 1996, Pub. L. No. 104-104, which took effect Feb. 8, 1996.

centric technology)¹¹ and Verimatrix (FCC has not done enough to impose standards for consumer electronics).¹² Notwithstanding NCTA’s claim that the cable industry is still working on the issue,¹³ the County believes that the Commission has given the cable industry ample opportunity to comply with the statutory mandate.

Table 2 – Cable Equipment Rates in Montgomery County¹⁴

	2007	2008	2009
Comcast			
Basic only converter	\$0.90	\$1.10	\$1.10
Addressable converter	\$3.75	\$3.70	\$3.40
HD digital converter	\$6.50	\$7.95	\$7.95
Remote control	\$0.20	\$0.25	\$0.25
Cable Card	n.c.	n.c.	n.c.
Digital Adapter	n.a.	n.a.	\$1.99
RCN			
Digital converter	\$7.95	n.a.	\$3.95
Additional converter	\$7.95	n.a.	\$6.95
HD converter	\$9.95	n.a.	\$11.95
DVR	\$12.95	n.a.	\$17.95
Cable Card	\$1.50	n.a.	\$1.50
Digital Adapter	n.a.	n.a.	\$3.95
Verizon			
Std Def. Converter	\$4.99	\$4.99	\$7.99
HD converter	\$9.99	\$9.99	\$9.99
HD DVR	\$12.99	\$15.99	\$15.99
HD Home Media DVR	\$19.99	\$19.99	\$19.99
CableCard	n.a.	n.a.	\$3.99
Digital Adapter	n.a.	n.a.	\$3.99

n.c. = no charge

n.a.= price not available

Table 2 contains the rates for cable equipment in Montgomery County for 2007, 2008 and 2009. The table shows that rates for traditional analog converters remain low, but both addressable converters used to deliver pay-per-view and other advanced services, and high definition converters, are much more expensive. For example, the monthly rates for HD

¹¹ Verizon Comments at 5 (filed May 20, 2009).

¹² Verimatrix Comments at 3-6 (filed May 20, 2009).

¹³ NCTA Comments at 38-43 (filed May 20, 2009).

¹⁴ Rates listed are those in effect on June 30 of each year.

converters are substantial: subscribers can pay \$7.95 (Comcast), \$9.99 (Verizon), or \$11.95 (RCN). Comcast's rate for an addressable converter is three times that of a basic-only converter, and its rate for an HD converter is over seven times that of a basic-only box.

Furthermore, equipment rates add significantly to the total cost of obtaining cable service. Table 2 shows that Verizon charges \$7.99 for its standard converter: this is 71% of the price for basic-only service. Comcast and RCN's rates for standard digital converters are lower -- \$3.40 and \$3.95, respectively -- but they still add over 5% to the monthly rate for expanded basic service.

Another factor the Commission must consider is that many subscribers have more than one television set. In fact, Comcast estimates that there are 2.8 television sets in the average household.¹⁵ For the large number of subscribers in the County who have more than one television set, paying for a converter on every television set adds substantial amounts to their monthly bills. Table 3, on page 7, shows the effects of equipment charges on rates for subscribers who pay for service to more than one television set. Subscribers do have the option of paying lower rates for digital adapters, instead of set-top boxes, but these devices do not provide access to the on-screen program guide or to video-on-demand services. Thus, if a subscriber wants the benefit of the full capability of provider's technology, these devices are not adequate. Rates for digital adapters appear in Table 2.

¹⁵ *Comcast's Montgomery Digital Network Enhancement and "The World of More,"* presentation by Comcast to Montgomery County (June 2009).

Table 3 – 2009 Rates for Service plus Equipment

	Service + one set	Increase over service only	Service + two sets	Increase over service only	Service + three sets	Increase over service only
Comcast						
Basic only (analog) + converter + remote	\$20.60	7.0%	\$21.95	14.0%	\$23.30	21.0%
Expanded Basic + Addressable converter + remote	\$66.95	5.8%	\$70.60	11.5%	\$74.25	17.3%
Expanded basic + HD digital converter + remote	\$71.50	13.0%	\$79.70	25.9%	\$87.90	38.9%
RCN						
Basic + digital converter	\$21.90	22.0%	\$28.85	60.7%	\$35.80	93%
Expanded basic + digital converter	\$65.39	6.4%	\$72.34	17.7%	\$79.29	29.1%
Expanded basic + HD converter	\$73.39	19.4%	\$85.34	38.9%	\$97.29	58.3%
Verizon						
Basic + standard definition converter	\$20.98	61.5%	\$28.97	123%	\$36.96	184%
Expanded basic + standard definition converter	\$55.98	16.6%	\$63.97	33.3%	\$71.96	49.9%
Expanded basic + HD converter	\$57.98	20.8%	\$67.97	41.6%	\$77.96	62.4%

Table 3 and Figures 1 through 3 (see page 8) illustrate the dramatic effects of equipment rates on the amounts subscribers pay, especially in the case of Verizon. A Verizon basic-only subscriber renting a single converter will pay 61% more than the basic service price. A Verizon HD subscriber pays an extra 21%. The effects are even greater for subscribers with multiple televisions: if a Verizon subscriber has three sets and wants HD service on all of them, the subscriber will pay an additional 62%. A comparable RCN subscriber would pay an additional 58%, making the additional 39% paid by a comparable Comcast subscriber seem almost reasonable. In other words, equipment adds a lot to the rates subscribers pay, and the Commission needs to specifically address this issue in any discussion of the cost of cable service.

Figure 1: Basic Only With Equipment Rates

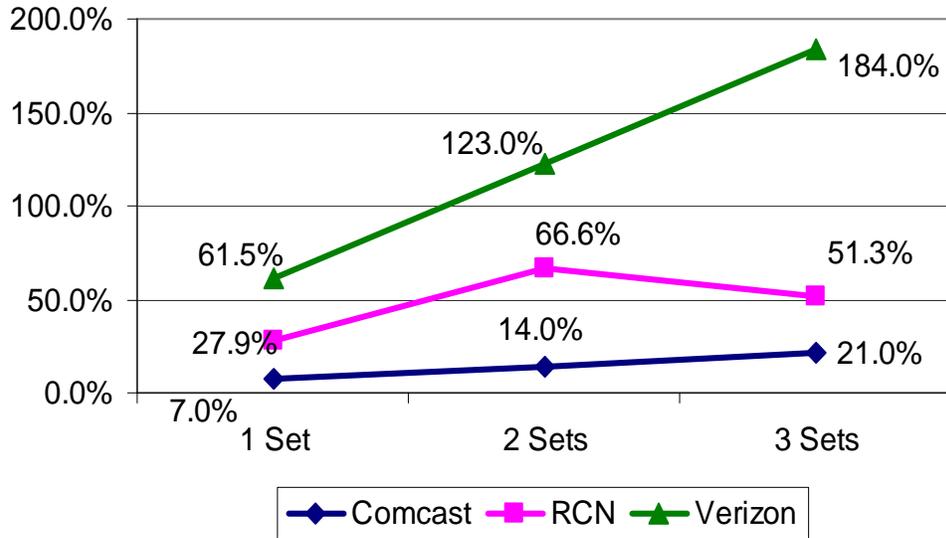


Figure 2: Expanded Basic With Equipment Rates

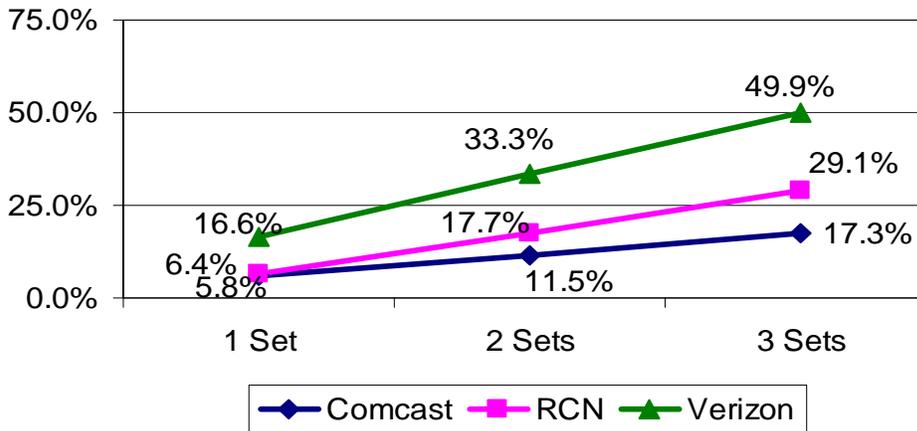
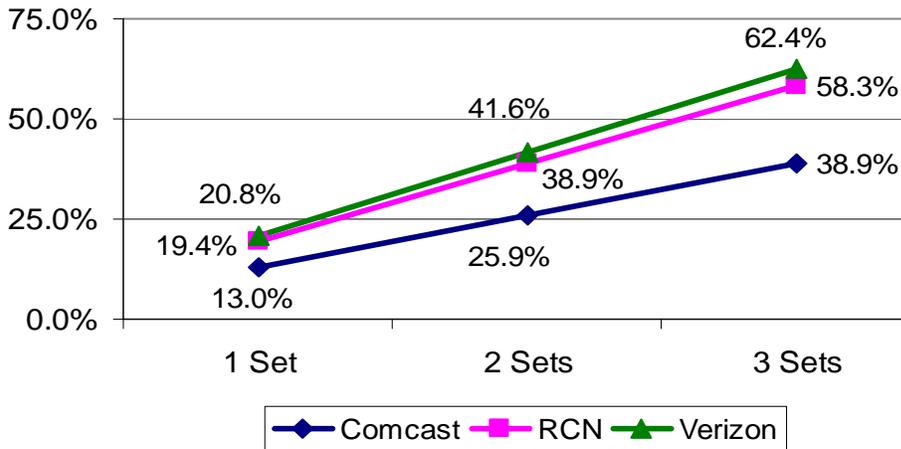


Figure 3: Expanded Basic HD With HD Equipment Rates



The effects of the failure to effectively decouple cable service from equipment rental will become even more pronounced as incumbent operators shift to all-digital systems. As discussed above, digital equipment is more expensive than older analog equipment, and until recently the rates for such equipment were contained in many jurisdictions by the application of the Commission's rate regulation rules. In view of how much Verizon and RCN are already charging for such equipment, in a non-rate-regulated environment there is no reason to believe that Comcast and other incumbents will not raise their rates for converter rentals. Furthermore, subscribers without digital televisions will be forced to pay for additional equipment – a converter or a digital adapter – to receive even unencrypted signals made available on basic tier service. Even if the provider offers CableCard at no charge, as Comcast does, some subscribers with older sets will still have to pay for other equipment, because a CableCard is useless if the set has no slot for the card.¹⁶ Consequently, as cable operators abandon analog technology, they are simultaneously expanding their captive equipment rental market. Subscribers can only rent equipment from the operator, while the operator remains free to charge whatever rate it chooses.

III. BUNDLING DOES NOT PROMOTE COMPETITION.

In earlier comments in this docket, the County pointed out that bundling of voice, video and data services does not promote competition, because bundling makes it very difficult for consumers to compare service offerings, and because the costs of switching – such as the inconvenience associated with changing email addresses – are significant.¹⁷ Other parties also addressed this issue in their earlier comments.

¹⁶ In addition, current generation CableCards do not allow subscribers access to program guides or other interactive features.

¹⁷ Montgomery County Comments at 12-15 (filed May 20, 2009).

The County concurs with Comcast, which has observed that new entrants and incumbent cable operators use bundling to drive up their revenues per subscriber and to increase customer retention.¹⁸ This suggests that bundling does not necessarily bring prices down, and that consumers find the costs of switching providers to be high. Bundling therefore does not advance competition.

The City of New Orleans has stated that the consumer benefits of bundling are not clear, because it is unclear whether consumers buy service bundles to get discounts or because of the convenience of getting all services from one provider.¹⁹ The County questions, however, whether a careful examination of those two factors would demonstrate that bundling is truly beneficial. One of the problems with bundling is that consumers cannot really compare prices: they may pay a lower price for the bundle than they would for all three services from the same provider, but by taking the bundle they surrender the opportunity of getting the best price for the best level of service on each of the three services. Bundling thus results in fewer choices for consumers. Furthermore, after taking the bundle, consumers will find it more difficult to switch providers. Thus, the perceived benefits of bundling may in fact be drawbacks.

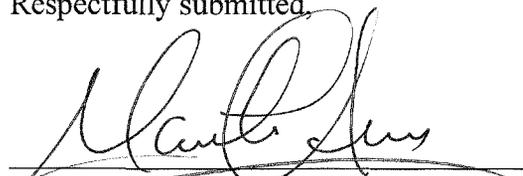
¹⁸ Comcast Comments at 45 (filed May 20, 2009).

¹⁹ Comments of Cable and Telecommunications Committee of the New Orleans City Council at 10-13 (filed May 20, 2009).

CONCLUSION

Montgomery County urges the Commission to carefully examine the reasons for continuing increases in cable rates, and especially to consider the effects of high equipment rates on subscribers.

Respectfully submitted,



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July 29, 2009

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HOUSE BILL 1203

I3

01r2395
CF 01r2391

By: **Delegate Frick**

Introduced and read first time: February 18, 2010

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Cable Operators – Purchase of Cable Converter Box**

3 FOR the purpose of requiring a cable operator to provide certain options to certain
4 subscribers concerning purchase of a cable converter box; providing that a cable
5 operator may continue to offer certain options; prohibiting a cable operator from
6 discriminating between certain subscribers under certain circumstances;
7 providing for the construction of this Act; making a violation of this Act an
8 unfair or deceptive trade practice subject to certain enforcement and penalty
9 provisions; defining certain terms; providing that existing obligations or
10 contract rights may not be impaired by this Act; and generally relating to
11 consumer protection and cable service subscribers.

12 BY renumbering

13 Article – Commercial Law
14 Section 13–301(14)(xxiv) through (xxvii), respectively
15 to be Section 13–301(14)(xxv) through (xxviii), respectively
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2009 Supplement)

18 BY adding to

19 Article – Commercial Law
20 Section 13–301(14)(xxiv) and 14–1322
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2009 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That Section(s) 13–301(14)(xxiv) through (xxvii), respectively, of Article
25 – Commercial Law of the Annotated Code of Maryland be renumbered to be Section(s)
26 13–301(14)(xxv) through (xxviii), respectively.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article – Commercial Law**

4 13–301.

5 Unfair or deceptive trade practices include any:

6 (14) Violation of a provision of:

7 **(XXIV) SECTION 14–1322 OF THIS ARTICLE;**

8 **14–1322.**

9 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
10 **MEANINGS INDICATED.**

11 **(2) “CABLE CONVERTER BOX” MEANS:**

12 **(I) A DEVICE THAT DESCRAMBLES, DECRYPTS, OR**
13 **CONVERTS CABLE SIGNALS TO ENABLE DISPLAY OF CABLE SERVICE VIDEO**
14 **PROGRAMMING ON THE SUBSCRIBER’S TELEVISION, MONITOR, OR DISPLAY**
15 **EQUIPMENT; AND**

16 **(II) ANY REMOTE CONTROL DEVICE THAT ALLOWS**
17 **SUBSCRIBER INTERACTION FOR SELECTION OR USE OF CABLE SERVICE.**

18 **(3) “CABLE OPERATOR” MEANS A PERSON THAT:**

19 **(I) 1. PROVIDES CABLE SERVICE OVER A CABLE**
20 **SYSTEM; AND**

21 **2. DIRECTLY OR THROUGH ONE OR MORE**
22 **AFFILIATES OWNS A SIGNIFICANT INTEREST IN THE CABLE SYSTEM; OR**

23 **(II) OTHERWISE CONTROLS OR IS RESPONSIBLE FOR THE**
24 **MANAGEMENT AND OPERATION OF THE CABLE SYSTEM THROUGH ANY**
25 **ARRANGEMENT.**

26 **(4) “CABLE SERVICE” MEANS:**

27 **(I) THE TRANSMISSION TO SUBSCRIBERS OF VIDEO**
28 **PROGRAMMING OR OTHER PROGRAMMING SERVICE; AND**

1 **(II) SUBSCRIBER INTERACTION, IF ANY, REQUIRED TO**
2 **SELECT OR USE THE VIDEO PROGRAMMING OR OTHER PROGRAMMING SERVICE.**

3 **(5) "CABLE SYSTEM" MEANS A FACILITY THAT:**

4 **(I) CONSISTS OF A SET OF CLOSED TRANSMISSION PATHS**
5 **AND ASSOCIATED SIGNAL GENERATION; AND**

6 **(II) IS DESIGNED TO PROVIDE CABLE SERVICE TO MULTIPLE**
7 **SUBSCRIBERS IN A COMMUNITY.**

8 **(B) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT, CONDITION,**
9 **OR RESTRICT ANY CABLE SYSTEM'S USE OF ANY TYPE OF SUBSCRIBER**
10 **EQUIPMENT OR TRANSMISSION TECHNOLOGY.**

11 **(C) (1) A CABLE OPERATOR THAT REQUIRES A SUBSCRIBER IN THE**
12 **STATE TO RENT OR LEASE A CABLE CONVERTER BOX TO RECEIVE CABLE**
13 **SERVICE SHALL ALLOW THE SUBSCRIBER TO PURCHASE THE CABLE**
14 **CONVERTER BOX OUTRIGHT.**

15 **(2) THIS SECTION MAY NOT PROHIBIT A CABLE OPERATOR FROM**
16 **CONTINUING TO OFFER A SUBSCRIBER THE OPTION OF RENTING OR LEASING A**
17 **CABLE CONVERTER BOX FOR A SEPARATE FEE OR AS PART OF A PROGRAM**
18 **PACKAGE.**

19 **(D) A CABLE OPERATOR MAY NOT DISCRIMINATE IN THE PRICE FOR**
20 **CABLE SERVICE BASED ON WHETHER A SUBSCRIBER RENTS, LEASES, OR OWNS A**
21 **CABLE CONVERTER BOX.**

22 **(E) A VIOLATION OF THIS SECTION:**

23 **(1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE**
24 **MEANING OF TITLE 13 OF THIS ARTICLE; AND**

25 **(2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY**
26 **PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.**

27 SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing
28 obligation or contract right may not be impaired in any way by this Act.

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 2010.