Local Government: Partner in Promoting Video Competition

Local government strongly endorses promoting competition for all consumers and treating like services alike. Our nation's cities and counties welcome video competition in their communities. Nationalizing franchising, however, would limit the benefits of head-to-head video competition to a chosen few, and would undermine the ability of local governments to protect their residents and manage their public rights-of-way.

Before the U.S. House of Representatives Subcommittee on Telecommunications and the Internet of the Committee on Energy and Commerce acts, it should consider:

- Franchises do not just provide permission to offer video services; they are the core tool local government uses to manage streets and sidewalks, provide for public safety and homeland security, enhance competition, provide locally-originated programming, and collect compensation for private use of public land. Eliminating franchises will deprive local government of the power to perform these basic functions.
- Competition is for everyone. Current national policy implemented through franchises encourages competition throughout the country, not just in urban or suburban areas and not just for the wealthy. In less than 10 years, the local franchising process resulted in broadband service being available to 91 percent of all homes capable of receiving cable service.
- Congress should not try to oversee management of local streets and sidewalks from Washington, DC; national franchising would abrogate a basic tenet of federalism by granting companies access to public and privately owned property.
- Local government does not stand in the way of new video service offerings. Telephone companies have insisted on preferential treatment in most markets. Potential video competitors require relatively few franchises to implement their announced business plans (for AT&T 1,500-2,000 franchises, for Verizon 100-200 franchises).
- States where statewide or simplified franchising is currently in place do not see greater or faster video competition deployment.

Concerns with the Communications, Promotion, and Enhancement Act of 2006

- Without a franchise agreement, the only effective mechanisms that local government has to manage its public rights-of-way, ensure competition for everyone, and collect franchise fees are eliminated.
- The measure allows a new cable provider through the national franchise to pick and choose the most profitable areas.
- The legislation would allow the incumbent cable operator to abandon the existing locally granted franchise as soon as the federally certified national franchise holder offers service to one subscriber in the competing service area.
- While the legislation ostensibly prohibits economic redlining, it fails to provide sufficient enforcement authority (indeed, the draft is incomplete in this area) to protect constituents.
- Though the legislation preserves local authority over the management of rights-of-way, it fails to provide sufficient enforcement authority to assure compliance.
- While the legislation is silent on the appropriate forum for resolving local rights-of-way disputes, by default that task would move to the Federal Communications Commission (FCC).
- Although the bill retains the current five percent gross revenue cap on franchise fees, it limits the revenues from these fees in two ways: 1) paragraph (C) excludes revenue from "information services" in defining gross revenue, and 2) by, in paragraph (E), excluding from gross revenues "any requirements or changes for managing the public rights-of-way with respect to a franchise under this section, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages."
- Despite the fact that the legislation provides one percent of gross revenues for public, educational and governmental (PEG) channels and institutional networks ("I-Nets") for local government needs such as fire, police, and other governmental communications, for some jurisdictions this will not be sufficient.

United States Conference of Mayors – http://www.usmayors.org; National League of Cities – http://www.nlc.org
National Association of Counties – http://naco.org; National Association of Telecommunications Officers and Advisors – http://www.natoa.org
Government Finance Officers Association – http://www.gfoa.org; International Municipal Lawyers Association – http://www.imla.org;
TeleCommUnity – http://telecommunityalliance.org; National Conference of Black Mayors – http://www.ncbm.org