



The National Voice of the Hispanic Legal Community.

January 30, 2006

Chairman Ted Stevens
Co-Chairman Daniel K. Inouye
U.S. Senate Committee on Commerce,
Science, and Transportation
508 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Stevens and Co-Chairman Inouye:

On behalf of the Hispanic National Bar Association (“HNBA”), I urge you to oppose any video franchising proposals that would weaken long-standing anti-discrimination rules that have protected Hispanic communities from digital redlining for over twenty years. As the Commerce Committee considers revisions to the telecommunications laws, we believe that the anti-discrimination provisions must be retained to ensure that Hispanic and other underserved communities have an equal opportunity to benefit from the technologies that will lead our country forward in the digital era.

Founded in 1972, HBNA represents the interests of over 27,000 Hispanic American attorneys, judges, law professors, and law students in the United States and Puerto Rico. HBNA is a member of the National Hispanic Leadership Agenda, and works to address issues of concern to the national Hispanic community. In our view, the anti-redlining provisions of the federal cable laws are critical to ensuring that members of the Hispanic community have fair and equal access to the latest technology.

The Communications Act of 1934, as amended, makes it clear that all cable operators are bound by federal nondiscrimination rules under which they may not deny access to video service to any group of subscribers within a franchise area “because of the income of the residents of the local area in which such group resides.” 47 U.S.C. § 541(a)(3). The Cable Communications Policy Act of 1984 (“1984 Cable Act”), the Cable Television Consumer Protection and Competition Act of 1992 (“1992 Cable Act”), and the Telecommunications Act of 1996 (“1996 Cable Act”) combine to create an unambiguous and unwavering national policy that prohibits redlining by any cable operator, whether it is an established cable company or a new entrant like AT&T or Verizon.

As you know, the 1984 Cable Act created a framework under which local franchising authorities (“LFAs”) were explicitly required to ensure that cable franchisees did not redline, and most LFAs incorporated strong anti-discrimination rules directly into their franchise agreements. In the 1992 Cable Act, Congress decided that LFAs could not grant an exclusive franchise and could not unreasonably refuse to award other competitive franchises. In addition, Congress added a requirement that each franchise applicant must “become capable of providing cable services to all households in the cable area” within a reasonable time period. 47 U.S.C. § 541(a)(4)(A). In 1996, Congress amended the Communications Act again specifically to allow the telephone companies to enter into the video marketplace; to the extent they do not do so as common carriers, via wireless, or

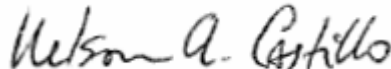
as Open Video Systems, they are required to do so as cable operators, subject to the rules just described. 47 U.S.C. § 571(a).

In short, for more than a decade, the door has been wide open to telephone companies to enter the video marketplace, and with limited exceptions they have chosen not to do so. Now that they appear ready to enter the market, they recognize that the anti-redlining provision in federal law, in conjunction with local franchising rules, require them to offer services to all residents in their service area within a reasonable period of time.

The phone companies are not prepared to make such a commitment and therefore have turned to Congress to excuse them from the anti-discrimination rules that would ensure that all residents, regardless of income, will have equal opportunity to benefit from their new services. Were the phone companies given permission to bypass communities, many Hispanic residents are likely to be left behind, thereby widening the digital divide that exists in America today.

We support video competition and believe it essential that all competitors abide by current law to ensure that all communities receive the benefits of competition. As the Committee hearings on franchising begin, we urge you to oppose any legislation to eviscerate the anti-discrimination rules that have protected Hispanic communities for decades.

Sincerely,



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