

Congress of the United States
House of Representatives
Washington, DC 20515

March 29, 2006

The Honorable Joe Barton
Chairman
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable John D. Dingell
Ranking Member
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Barton and Ranking Member Dingell:

We write to urge the House Committee on Energy and Commerce to redouble its efforts to produce bipartisan legislation addressing the issue of video franchising. Anything less could derail the chances of passing significant legislation promoting increased competition in the communications marketplace this year. In particular, we believe video franchising legislation must continue Congress' tradition on matters of communications policy of adopting meaningful non-discrimination provisions with strong enforcement mechanisms. The interests of low income and minority communities hang in the balance.

We are painfully aware of the regressive consequences should we fail to quickly close this nation's digital divide. Latinos disproportionately rely on over-the-air signals, as opposed to cable or satellite, for their television programming. Nielsen Media Research reports that 29 percent of Latino TV households in the U.S. receive their video programming over the air compared to only 16 percent of non-Latino households. Moreover, while Latinos are America's fastest growing demographic of Internet users, only one in eight Latino households has access to broadband services.

If we want to bridge the gap between technological "haves" and "have nots," the benefits of competition in the communications marketplace must be extended to as many Americans as possible, in as many local communities as possible, without regard to race, color, national origin, religion, sex or income. The current draft of legislation before the Committee does not guarantee this. First, the draft is silent in defining "franchise area," an omission that strikes at the heart of this proposal. The proposed anti-discrimination language only requires that where a cable or video service provider decides to offer services it not deny access based on income to potential subscribers in that self-selected area. The draft also allows any incumbent video service provider to opt in to the national franchise system established by the legislation, thereby freeing it from prior build-out obligations. Combined, these provisions in the draft could have a chilling effect on efforts to bridge the digital divide.

In our nation's capital, for example, this proposed policy would allow a new entrant to choose to provide video services only in Washington, D.C.'s Northwest area, and at the same time would release any incumbent service providers from prior timelines and obligations to build out or

continue to serve Southeast D.C. As long as providers did not discriminate *within* Northwest D.C.—where both providers would likely sink investments and upgrades to compete head to head—the proposed policy would allow both the incumbent and the new entrants to disenfranchise the residents of the Southeast region. Such an approach would actually pervert civil rights principles, and neglect decades of non-discrimination protections.

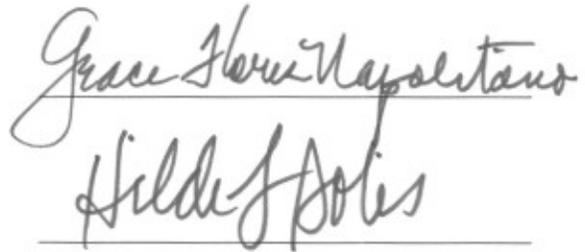
As we move to update our communications laws, it is essential that there be no retreat from the principles of universal service and non-discrimination in America's telecommunications policy. In the 1992 Cable Act, Congress specified that each franchise applicant must “become capable of providing cable services to all households in the cable area” within a reasonable time period. Today, at a minimum, we should ensure that each resident within communities where new services are deployed has the opportunity to choose from multiple providers of new technologies and services as soon as reasonably possible. And to prevent discriminatory practices, the scope of coverage of any non-discrimination provisions for video franchising must encompass the entire footprint of a video service provider.

Finally, consumers should know that their telecommunications service provider and the oversight authority charged with protecting them and resolving disputes are locally accessible. It should not be acceptable for consumer grievances or claims of discriminatory practices to be tied up for months in a national bureaucracy. Local governments, especially with respect to the offering of video services, have historically served as the front line against discrimination in their communities. Before we abandon that line of defense against discrimination, Congress should ensure that in doing so it builds upon, rather than retreats from, this record of protection.

We thank you for your continued leadership and look forward to joining you in support of bipartisan legislation promoting robust competition in the communications marketplace.

Sincerely,









Donald

Tracy M. Wilson

John N. Smith

Rail M. Lyman

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