

**Statement of Daniel L. Brenner, Senior Vice President, Law & Regulatory Policy,
National Cable & Telecommunications Association**

**FCC Open Commission Meeting
Keller, Texas
Friday, February 10, 2006**

Good morning, Mr. Chairman and Commissioners. My name is Daniel L. Brenner and I am the Senior Vice President for Law and Regulatory Policy for the National Cable & Telecommunications Association. NCTA is the principal trade association for the cable industry, representing cable operators serving more than 90 percent of the nation's cable television households and more than 200 cable program networks. The cable industry is also the nation's largest broadband provider of high-speed Internet access after investing \$100 billion over ten years to build out a two-way interactive network with fiber optic technology.

This is a discussion of the state of video competition. But, I would like to suggest that the Commission also look more broadly, to the state of competition in the communications market. I say communications market and not video market because cable is no longer limited to subscription television. Nor are its competitors.

When Congress required an annual video competition report in the 1992 Act, DBS did not exist. Telcos were barred from providing video service in all but the most rural areas. No video Broadband, no Tivo, no portable DVDs, and what satellite dishes existed had the diameter of a small Buick. Not to put too fine a point on it, but there were no pictures on cell phones, either.

Today, the cable industry is no longer merely a provider of video programming. NCTA's member multiple system operators (MSOs) now also provide consumers with high-speed access to the Internet (cable modem service), and telephone service (both traditional circuit-switched and Voice over Internet Protocol).¹ And telephone companies are now providing high-speed Internet service and video programming in addition to their core telephone service. It's 2006 and video competition is here, here to stay. Customers have the choice of living in, and buying services from, a converged communications marketplace.

With regard to our core business, the video marketplace is more competitive than ever. As the Commission has noted, there have been sweeping changes in the video marketplace over the past decade. As you concluded in the 10th Annual Report, "the vast majority of Americans enjoy more choice, more programming and more services than anytime in history."² In the 11th Annual Report, the Commission reported that "almost all U.S. consumers have the choice between over-the-air television, a cable service, and at least two direct broadcast satellites (DBS) providers."³ And in some areas, the FCC found, "consumers also can choose to receive service from one or more emerging technologies, including digital broadcast spectrum, fiber, and video over Internet."⁴

¹ Some cable operators are also beginning to add wireless telephone service to their bundle, as Time Warner did recently in its partnership with Sprint.

² *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 19 FCC Rcd 1606, 1608 (2003).

³ *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 20 FCC Rcd 2755, 2757 (2005).

⁴ *Id.*

When Congress ordered an annual video report in the 1992 Cable Act, cable -- a one-way service with about 39 analog channels and no digital channels -- commanded 95 percent of the multichannel television market. Today, it is only one of many interactive broadband platforms that provide a variety of voice, video, and data services. Thanks to fierce competition from two Direct Broadcast Satellite (DBS) providers -- EchoStar and DirecTV -- cable's market share has fallen to less than 69 percent. The Regional Bell Operating Companies (RBOCs) are entering the fray, bringing with them an annual revenue stream of \$150 billion -- about three times that of the cable industry -- and billions committed to upgrading their plants to provide cable service.

Added to these three significant video players -- cable, satellite, and telephone -- are others who compete to provide state-of-the-art video services. These include Internet-based services, video cell phone providers, wireless computer manufacturers, and consumer electronics suppliers -- not to mention over-the-air broadcasting, wireless cable, and DVD sales and rentals. Consumers are the beneficiaries of this highly competitive landscape. When it comes to video competition, I think it's fair to say that it's time to put a fork in it -- it's done.

Evidence of a highly competitive marketplace can be found not only in the choices available to consumers, but also how cable operators and their competitors have reacted. When DBS began to offer consumers an alternative with more channels, more pay-per-view movies, and digital audio and video, cable operators embarked on a \$100 billion, nationwide upgrade of their facilities. With additional capacity and digital

capability, cable operators began to offer new tiers of digital programming, along with video-on-demand and digital video recording capability. Cable expanded its video services to offer high definition television programming. Cable also increased the quality and diversity of its programming and pioneered commercial high-speed Internet service.

Let me make two points about the consequences of this vibrant video market. First, with ample video competition, consumers and communications companies are moving toward providing bundles of services – video, data, voice, and, increasingly, wireless for a set price. There are several advantages for both providers and customers of bundles. By providing a suite of services, competitive providers become one-stop shops for most residential consumer needs. For customers, there's the benefit of a single bill, a simple point of contact for customer relations issues, and prices reflecting a multi-purchase discount.

Because the customer is buying a suite of services, there are pricing plans that provide substantial savings. I point to that fact because while competition engendered by DBS led to some price competition, it also led cable to offer larger, higher quality programming offerings and digital enhancements. The Commission recognized that quality competition, not solely price competition, also benefits consumers. The bundle is now providing new service and price competition in video.

The bottom line: signs of a competitive marketplace abound. Several different providers of a wide array of services vie with each other for customers, each trying to differentiate itself with unique offerings while trying to match those of its competitors.

As early as 1998, telephone and DBS companies joined forces to offer their own packages of TV and voice service. That year DirecTV teamed up with Bell Atlantic (now Verizon) and SBC (now AT&T) to offer a video-voice bundle. And this year DirecTV and Echostar are launching a nationwide wireless broadband network to compete with the video/data bundle of cable and telcos.

NCTA's cable operators are leading in bundling:

- In the New York market, Cablevision offers an Optimum Triple Play package comprised of digital cable (including 18 channels of High Definition channels), High-Speed Internet access (at a rate three times faster than DSL) and Optimum Voice for an introductory rate of \$29.95 per service for the first year. After the promotional rate expires, Cablevision customers are given a \$20 Optimum Reward discount over the regular rates.
- Likewise, Time Warner Cable offers Double and Triple Play in numerous markets. For \$99 per month, customers can purchase a 150 channel digital TV package, high-speed cable service, and digital phone.
- Cox Communications pioneered the first successful cable bundle using circuit switched telephony and now offers its customers discounts for taking bundled services.

- Comcast will roll out discount “triple-play” bundles nationwide this year. In Boston, Comcast subscribers can get TV, broadband and phone service for \$99 a month the first year, far less than what they’d pay for all three separately.
- Smaller MSOs serving more rural areas also are offering bundled services. NewWave, Galaxy Cablevision and SEMO Communications Corp., for example, share an overall game plan: Offer consumers in the heartland a bundle of services – video, high-speed Internet, digital and now voice – at an attractive price.

Not all customers necessarily want to buy a bundle, and for these customers the relative competition of each market segment is worth examining. As I have indicated, the video market is robustly competitive. As to the data market, cable enjoys a healthy lead in residential broadband. It’s not surprising, given that the cable industry virtually invented residential broadband service. By offering customers an improvement over the telco dial-up service, cable forced the Bells to take its DSL technology off the bench and onto the playing field. Today there is a vigorous competition for broadband customers with dial-up still a significant market player for some customers.

This leads to my second point. Only one part of the bundle – only one part of residential communications services – remains dominated by the incumbent provider, and that is landline phone service. According to the FCC’s July 2005 report on Local Telephone Competition, ILECs accounted for nearly 85% of all residential and Small

business access lines as of December 2004. Wireless competes, but for many customers, the landline phone defines phone service.

It is here where cable has been the leader in offering customers a choice of facilities-based residential phone competition. This commitment from large companies started with Cox, with its offering of competitive, facilities-based circuit-switched service in 1997. Today, Cox is one of the largest facilities-based telcos in the United States. And it earned that position not on guaranteed rate-of-return formulas but by competitive entry against incumbents who controlled 100% of the market. With the advent of VoIP, all major cable companies are providing facilities-based competition to the incumbent carriers. By Year End 2005, the cable industry had an estimated five million telephony customers.

So, as the Commission considers issues of competition in video, I would urge it to look more broadly at the growing market for bundled telecommunications services. The future of video competition will be all about the bundle. And in examining competition there I urge a focus on the one part of the bundle that is still dominated by an incumbent provider – wireline phone service.

Thank you.