



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

NOV - 4 1999

The Honorable Orrin G. Hatch
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Administration has strongly supported efforts to enhance consumer choice and competition in the multichannel video marketplace. The reauthorization of the Satellite Home Viewer Act presents an opportunity to achieve these goals by promoting greater access to local television signals for all Americans and enabling satellite service providers to offer comparable services at competitive prices to cable. The Administration believes that it is very important to enact strong pro-competitive legislation this year.

We are concerned, however, that the current draft conference report fails to fully capitalize on this opportunity, and is inconsistent with the Statement of Administration Policy, as I reiterated in my letter of October 26, 1999, to conference leaders. In fact, there are a number of new provisions in the draft that appear to create economic and regulatory disincentives for providing "local-into-local" carriage of broadcast signals, to limit consumer programming choices, to permit discriminatory conduct, and to increase the potential cost of satellite programming for consumers.

The Administration is particularly concerned about certain new provisions that would seem to have a direct and adverse impact on consumers' choice. The draft would limit the number of imported network signals an otherwise eligible consumer could receive, and under certain circumstances, dictate the origins of the signal. In some instances, this could cause subscribers to actually lose some services or have limited programming choices in the future.

The Administration has supported a phase-in of local broadcast carriage, both for must carry and retransmission consent. The Administration is concerned, however, about the new provisions in the draft that would permit broadcasters to offer retransmission consent to satellite carriers on different terms and conditions, including price, based on otherwise undefined "competitive marketplace considerations." The Administration believes that a more appropriate standard to prevent discrimination and insure that satellite consumers would not bear higher programming costs would be a cost-based standard, such as the one embodied in the program access provisions of the 1992 Cable Act.

The Administration also feels that the technical feasibility and economic impact on satellite service providers should be determined before imposing the broadcast blackout rules. The impact of these rules on satellite consumer's choice of programming should also be considered. The current draft now appears to mandate that the same rules be applied to satellite providers as

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are now imposed on the cable industry without an examination of their impact on satellite service providers or consumer's viewing choices. The Federal Communications Commission should be given the flexibility to examine this issue thoroughly before new regulatory burdens are imposed on satellite service providers or consumers lose programming options.

Finally, the Administration is concerned about the unfunded mandate in the draft that requires the satellite industry to bear the full cost of providing free antennas to consumers that lose service as a result of this legislation. This requirement is an unreasonable and unjustified burden on the newest segment of the multichannel video marketplace.

Thank you for your consideration of the Administration's views. We look forward to working with you to improve this legislation as it continues through the legislative process.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Daley', is positioned above the printed name.

William M. Daley

Identical Letters Sent to:

The Honorable Howard L. Berman
The Honorable Thomas Bliley, Jr.
The Honorable Howard Coble
The Honorable John Conyers, Jr.
The Honorable Mike DeWine
The Honorable John D. Dingell
The Honorable Orrin G. Hatch
The Honorable Henry J. Hyde
The Honorable Ernest F. Hollings
The Honorable Herbert H. Kohl
The Honorable Patrick Leahy
The Honorable Edward Markey
The Honorable John McCain
The Honorable Michael G. Oxley
The Honorable Ted Stevens
The Honorable W. J. Tauzin
The Honorable Strom Thurmond