

**Remarks of FCC Chairman Kevin J. Martin**  
**National Cable & Telecommunications Association**  
**Las Vegas, NV**  
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**(As Prepared For Delivery)**

Thank you for inviting me to speak today. It is a pleasure to be here. Actually it is more than that - - it's a surprise! Over the past few months, I wondered whether or not I would even be invited to attend, never mind invited to speak. For example, let's look at some recent headlines. Just last Monday, one headline read "NCTA Heaps Scorn on FCC's Plans." Another article contained a quote from an NCTA spokesman saying that my policies were "simplistic and misguided." According to another article he said the industry didn't agree with me on a "single issue." Finally, only yesterday I saw a headline that simply read, "Chairman vs. Cable". And those were just last week!

Seriously though, I appreciate the opportunity to visit with you today. And I would like to set the record straight. I do not dislike Cable. Quite the contrary - - I am an avid cable customer. I subscribe to digital cable, have three set-top boxes, two DVRs, high-speed access, and wi-fi all provided by cable.

It is true, however, that I have some strong beliefs when it comes to matters of importance to your industry.

Let me start with the fact that the cable industry has done some remarkable things in the past few years. As an industry you have spent billions of dollars to upgrade your networks. Since 1996, you have spent more than 100 billion dollars on infrastructure investment. These upgrades have enabled you to deploy broadband services to millions of customers and resulted in you being a serious competitor to the incumbent telephone companies.

Specifically, at the end of 2006, nearly 29 million customers relied on cable's high-speed Internet services and more than 9 million customers received telephone service from a cable operator.

From my first days at the Commission, I have supported efforts to refrain from regulating your broadband service. I agreed with the cable industry that you should not be required to open your broadband network to competitors at wholesale rates. I agree that the government should also refrain from imposing taxes on broadband service and I support exempting them from franchise fees. I agree with the cable industry that your broadband services should not be subject to universal service fees that would be used to subsidize your telephone company competitors.

Your lead in deploying broadband forced the telephone companies to follow. You continue to lead the broadband industry in terms of offering fast speeds that enable consumers to take advantage of the most bandwidth-intensive applications on the Internet.

According to your recent report, cable's high-speed Internet access services are being offered at peak download speeds as high as 30 Mbps to 50 Mbps. This broadband deployment has been instrumental in allowing consumers to experience all that the Internet has to offer.

With such incredible speeds, consumers can do a wide range of exciting things such as downloading their favorite videos in minutes, use life-enhancing telemedicine applications, or share hundreds of family photos with distant relatives. I commend you on your success in this area and the market you have helped create.

Your significant infrastructure investments have also enabled most cable operators to offer consumers telephone service. You have succeeded where others have failed, providing the most successful and sustainable competition in the voice market. You offer consumers a facilities-based competitive alternative to the incumbent phone company, and they have responded by the millions.

Comcast alone added 587,000 voice customers during the first quarter of this year. Your success has contributed significantly to the downward pressure on prices for phone service, benefiting all consumers. It is this type of competition that the Telecommunications Act of 1996 envisioned. And, as a regulator, it is this type of competition we are trying to facilitate.

### *Competition*

Competitive forces spur innovation and push prices down. When a regulatory issue comes before me, my first instinct is to pick the action that will help facilitate and promote competition, innovation, and consumer choice. Sometimes that is de-regulation. Sometimes that is enforcing existing regulations designed to level the playing field or promote new entry. I have tried to apply such competitively and technologically neutral policies consistently across all platforms.

As a result, this means that sometimes my policies favor the cable industry - as they typically do when it is a matter of entry into new markets like the voice market. And, sometimes they do not - when it is an issue of someone else's entry into the video market.

As you know, your entry into the voice market dominated by an incumbent has not been easy. You have relied significantly on the Commission's market-opening policies, and I have supported you. Recently, I supported Time Warner Cable's petition for a declaratory ruling regarding interconnection rights that were affecting its ability to offer competing telephone service. We made clear that new telephone entrants, such as cable and other VoIP providers, must be given access to local telephone numbers and be able to interconnect with incumbents to deliver local calls to them. I have also circulated an order addressing a petition by Cox regarding its ability to reach customers in multi-tenant buildings to provide competitive phone service.

Fundamentally, your entry into the phone market benefits consumers, and I will support regulatory action to promote that entry and the competition it enables.

But cable operators are not always the new entrants. So consistent with my commitment to fostering a competitive marketplace and consumer choice, I have and will continue to side with the new entrants trying to break into the market where *you* are the traditional incumbent. My push to streamline the franchise reform process for new entrants was not intended as an attack on cable. Rather, it was promoting new entry in the video market in the same manner as I supported your entry into the phone market. Indeed, cable operators are able to take full advantage where they are willing to overbuild outside their incumbent region.

And yes, there are other proceedings on the horizon that we will likely debate – such as our pending program access and MDU access proceedings.

As we participate in what I am sure will be a vigorous exchange, you should understand that I am approaching these issues with the same regulatory philosophy that has guided me thus far. That is, I will examine the current competitive landscape and ask what Commission action is necessary to ensure that a level playing field exists to foster market entry.

There are some other high-profile issues where your industry and I are in strong agreement. One of these is in the area of net neutrality. Lots of people would like the Commission to impose regulation in this area. I have consistently resisted. As I have been saying for the past couple of years, I believe that any regulation in this area would be premature. There is no evidence of a market failure that warrants regulation in this area at this time. I also believe that network providers need to be able to recoup the costs for upgrading their infrastructure. Regulation in this area could have the detrimental effect of slowing down the deployment of broadband networks and thus the adoption of broadband services.

### *Consumer Choice*

Another belief I hold firm is that consumers should be able to purchase the products and services they want without being forced to buy something they do not want. Once again, sometimes that means I agree with the cable industry, and sometimes it does not.

For example, I agreed with Cable that consumers should not have to buy DirecTV service in order to see Major League Baseball games. I supported your efforts to allow cable subscribers to continue to purchase “Extra Innings” if they so desired. But similarly, I don’t believe subscribers should have to buy Spike TV in order to get Discovery. Fundamentally, I support consumers’ ability to pick and choose the products they want.

As most of you are aware, I have been strongly – not to mention frequently - encouraging your industry to adopt an approach that gives consumers greater choice in how they purchase their programming. Some consumers, and I am one of them, enjoy a large number of channels. But not everyone does. In short, an a la carte regime would enable viewers to buy their television channels individually, in smaller bundles, or in the large bundles currently offered. This issue has become even more important as the number of channels included in expanded basic, and the corresponding price to consumers, has continued to skyrocket. Expanded basic rates have almost doubled since 1996.

I realize that most of you are already quite - perhaps even painfully - familiar with my views on this topic so I will not spend too much time explaining them in detail. After all, I do not want to incite a riot here this afternoon. Nevertheless, I do want to point out that a la carte approaches have worked well in other countries, such as in Hong Kong and Canada.

For example, Rogers Cable, a Canadian cable operator, offers consumers substantially greater choice and appears to be benefiting financially from this decision. Its net income for every quarter in 2006 appears to have outpaced its net income for those same quarters in 2005.

Before I stop singing the praises of a la carte, I would also like to briefly respond to those who argue that an a la carte regime would be an unconstitutional means of protecting children against violence on television. I do not believe that requiring cable and satellite television providers to offer programming in a more a la carte manner raises any substantial difficulty under the First Amendment. In the first place, it is far from clear that any level of First Amendment scrutiny would be applied to a requirement to unbundle, for payment purposes, disparate video signals that comprise a programming package. While the Constitution protects the right to speak, it certainly doesn't protect a right to get *paid* for that speech.

Even if, however, the First Amendment were thought to apply to an a la carte regime, such a regime does not on its face favor or disfavor particular types of speech or impose a burden on speech based on a program's ideas or views. All of the versions of a la carte would keep government out of regulating content directly while enabling consumers, including parents, to receive the programming they want and believe to be appropriate for their families.

### *Consistency*

Finally, I have long been a strong advocate of promoting the digital transition in a manner that minimizes the burden on consumers while offering them the benefits of digital broadcasting.

I thought the FCC should encourage broadcasters to multicast because it would offer consumers – and over-the-air viewers in particular – a way to benefit from the transition. Thus, they would have the incentive to get a converter box or a digital set, because they would get more free channels. This incentive is what made consumers in Berlin and the UK *want* to get new equipment.

By contrast, without multicasting, the United States is saying to consumers, "get a converter box or else your TV will go dark," rather than, "get a converter box so you can get more free channels." The message in this country is not as appealing.

Broadcasters said they could not sustain a business based on advertiser-supported multicastrated channels unless they knew the channels would be carried on the cable and satellite systems. Your industry opposed mandatory carriage, saying consumers should be able to pick and choose the channels they want, not have programming forced upon them. But if that is really your belief, then it should hold true whether we are talking about broadcast channels or your own cable programming channels. You can't have it both ways. Fundamentally, I agree that consumer choice should be paramount. And if you advocate subjecting broadcast channels to consumer choice then why shouldn't cable channels be similarly subject to free market choices as well.

Finally, I would be remiss were I not to mention an issue which is at the forefront of many of your minds. That is the looming July 1<sup>st</sup> deadline of the set top box integration ban. As you have seen, we are in the process of ruling on the multitude of waiver petitions that have recently been filed with us. Fundamentally, I am for innovation. It leads to new and improved services, and ultimately lower prices. When someone is innovating with voice competition, I am on their side. When someone is trying to slow set-top box innovation, I am not.

Now there are certain instances where a waiver may be appropriate. For instance, when a cable operator is deploying an all digital system. In addition, it is important to remember that this rule does not apply to the legacy boxes already deployed. And the Commission has recognized that small cable operators may need more time to have their orders filled as they are frequently at the back of the line for new equipment.

### *Conclusion*

So where does this leave us? There are some issues where we are in perfect agreement. Those areas of agreement, unfortunately, rarely get much attention. And, yes, there are some issues on which we do not see eye to eye. I believe that my regulatory philosophy is simple one. I hope that it has come across in my remarks today. I believe in leveling the regulatory playing field for the purpose of fostering a competitive marketplace – whether the market be voice, broadband, or video. I also believe in doing everything possible to promote consumer choice and innovation. During my tenure as Chairman, I have tried to apply these principles on a competitively and technically neutral basis – across all the industries that the Commission oversees.

I recognize that the Commission is currently working on a number of proceedings of great importance to your industry.

I urge you, in the coming months, to have an open dialogue with us. Although I cannot promise that we will ultimately see things your way on every issue and in each proceeding - - I can promise you a fair hearing, serious consideration of your viewpoints, and, above all, a lively debate.

Thank you for your time today. I truly appreciate the invitation to be here.