



For Immediate Release

Coalition Blasts FCC for Unlawful, Arbitrary and Capricious Ruling on Video Franchising

Washington, DC, July 18, 2007 – In a Brief filed today, a coalition of local government and non-profit groups asks the United States Court of Appeals for the Sixth Circuit to overturn the video franchising Order issued by the Federal Communications Commission (FCC) in March 2007. The groups argue that the FCC had no statutory authority, acted in an arbitrary and capricious manner, and violated public notice requirements when it issued its Order.

“The FCC overrules Congressional intent, sets aside court jurisdiction, and wants us to ignore community needs,” said Donald J. Borut, executive director of the National League of Cities (NLC), one of the organizations filing suit. “The FCC’s action is purely a contrived and transparent attempt to legislate.”

The Order strips local governments of their authority to protect the public health, education, welfare and safety of local residents, in violation of the Cable Act. The purpose of the Cable Act is to ensure the availability of cable services in the community and that those services serve the public interest. Franchising protects public and private property from abuse, and provides for community channels and public safety networks. Congress recognizes the property rights involved and the importance of these media outlets within our communities. As a result, Congress has repeatedly reinforced that local governments are best suited to determine these needs and interests – not the FCC.

The coalition argues that:

- The FCC has no statutory authority to:
 - act as a franchise authority;
 - limit the ability of local governments to protect their residents’ interests;
 - allow providers to discriminate within the community.
- The FCC has no evidence in the record supporting its actions.
- The FCC infringes on states’ rights and preempts laws that ensure fair competition.
- The FCC violated federal laws requiring public notice of its actions.

The coalition also argues that the FCC has no authority to force communities to act by an arbitrary deadline or be forced to accept a unilaterally imposed franchising agreement which serves only the interests of the industry and ignores the rights of the community.

In addition, under the terms of the FCC Order, the coalition is concerned about the potential for new video providers to limit their services only to higher-income consumers. For instance, as outlined in the Brief, one major new video provider plans to “focus almost exclusively on affluent neighborhoods” with its service available to less than 5 percent of customers in “low-value” neighborhoods.

The organizations, as represented by the firm of Arent Fox, have also separately asked the Court to block implementation of the Order until a final determination on the lawsuit. The coalition members are the Alliance for Communications Democracy (ACD), Alliance for Community Media (ACM), National Association of Counties (NACo), National League of Cities (NLC), National Association of Telecommunications Officers and Advisors (NATOA), and The United States Conference of Mayors (USCM).

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