Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming	)	MB Docket No. 06-189
Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992	)	MB Docket No. 05-311

REPLY COMMENTS OF FAIRFAX COUNTY, VIRGINIA

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SUMMARY

Fairfax County, Virginia submits these reply comments to document the consumer impact of wireline competition in the market for video services. Fairfax County is served by three competitive wireline cable operators: incumbent cable operators, Comcast of Virginia, Inc., and Cox Communications of Northern Virginia, Inc., serve non-overlapping areas of the County; and Verizon Virginia Inc. ("Verizon VA"), serves the entire County. Fairfax County is one of the largest jurisdictions to have granted a competitive wireline franchise to Verizon, and Verizon VA has been providing cable service for over one year in Fairfax County. Because of the willingness of both parties to meaningfully engage in negotiations, Fairfax County staff and Verizon VA were able to complete negotiation of a comprehensive draft franchise with all major terms and conditions in approximately seven weeks, and in just under three months, completed a draft franchise agreement for the Fairfax County Board of Supervisors' consideration.

Reasonable build-out requirements have benefited Fairfax County consumers. Each of the County's three franchises require providers to make service available to all homes in the franchise area within a reasonable period of time and the County Code requires providers to make service available to at least eighty-five percent of all households without line extension charges. Verizon VA was granted seven years to complete its build-out. Fairfax County staff estimates that Verizon VA is now capable of serving approximately one-third of all County households, and all County households will have a choice of two cable operators within the next six years. Reasonable build-out requirements serve the important public policy purpose of ensuring that competitive video service – and as well as its by-product, high-speed Internet access via cable modem – is made available to every household. It will be important for

consumers that local franchising authorities retain the power to ensure that competition for such services – and accompanying competitive pricing pressure – leaves no neighborhood behind.

The 2006 Virginia cable franchising legislation grandfathered protection for existing cable franchises where a competitive franchise has been granted, but also permits existing providers to opt into the applicable terms in their entity of any new competitive franchise granted by its local franchising authority. In some cases, new competitors may request an ordinance cable franchise instead of a negotiated cable franchise. However, Verizon reports that it has continued to negotiate franchises since the new Virginia law took effect. Verizon reports that it negotiated two additional franchises in the six months since the new legislation took effect. Overall, the 2006 Virginia legislation has not yet significantly increased the rate of competitive cable system deployment in Virginia.

Fairfax County responds herein to arguments by some commentors that competition leads to lower pricing, and therefore any regulations perceived to delay competitive entry – including local franchising in particular – should be radically altered. Fairfax County provides non-promotional rates offered by Fairfax County cable operators for 2004, 2005, 2006 and 2007, to provide the Commission with more complete rate information. Rate data submitted by other commentors in this proceeding include unpublished temporary promotional prices and promotional prices available only to new subscribers, and thus do not reflect actually monthly cable rates paid by the majority of subscribers.

Wireline competition for video services in Fairfax County is still in the nascent stage and any conclusions drawn are preliminary in nature. A choice of competitive cable systems is still not available to the majority of County households. Therefore, Fairfax County cannot definitively determine what impact competition is having on cable service pricing. It is difficult

to compare digital cable and bundled service packages between providers because of the differences between each providers' package content. It is unclear how much, if any, of the applicable bundled service package discounts are attributable to competitive forces in the marketplace, or to generally accepted industry practices (which occur in both noncompetitive and competitive markets) to provide discounts to bundled services. Incumbent providers appear to be responding to competition by offering promotional discounts to new subscribers or by reducing some features in bundled packages so as to offer lower-priced bundled packages and match the competitor's bundled rate. But it also appears that in Fairfax County, the competitive entrant is offering consumers a stand alone cable package with a larger number of channels at a price point similar to the incumbent's rates. All cable operators have increased their rates since January 2006 and cable rates have risen at a faster rate as compared to when no head-to-head wireline cable competition existed in the County. Because the most recent cable pricing data released by the Commission analyzes cable rates as of January 1, 2005 (as contained in the *2005 Cable Price Report*) and wireline cable competition in Fairfax County began in November 2005, Fairfax County is unable to determine whether competition has caused monthly cable rates in the County to grow at a slower rate than in franchise areas without wireline cable competition.

As a consumer protection issue, Fairfax County notes that converter boxes account for almost eight percent of analog monthly cable rates (expanded basic service plus converter and remote control costs) and more than seven percent of mid-sized digital monthly cable rates (Verizon VA's expanded basic, Comcast VA's Digital Plus, and or Cox VA's Digital Gateway, Digital Discovery, and Digital Variety Tiers; plus digital converter box and remote control). Fairfax County urges the Commission to complete its implementation of the provisions of the 1996 Telecommunications Act that would enable consumers to purchase commercially available

converter boxes capable of receiving all programming, including interactive electronic program guides and video-on-demand services. The County also urges the Commission to complete implementation of the provisions of the 1996 Telecommunications Act that would permit subscribers to view all cable programming, including premium channels, without converter boxes so that consumers may fully utilize the advanced features of the their televisions, including picture-in-picture features.

The County also reports that each month, Fairfax County public, educational, and governmental access channels provide 1,691 hours of locally-originated programming, 301 hours of foreign language programming, and 976 hours of closed-captioned programming. The County also highlights important public safety considerations and technical information regarding the functional differences in operation of local emergency overrides on cable systems with regionally-based cable system headends. Finally, Fairfax County provides the Commission with information about the County's recent consumer educational campaign, "Connecting Your Home," which provided consumers with information about the E-911 services and back-up battery considerations when choosing between traditional telephone service and voice-over-Internet-protocol telephone service.

The County provides the information herein to assist the Commission in developing a comprehensive report to Congress regarding the state of competition in the market for the delivery of video programming. The County also urges the Commission to recognize the important public policy goals that have been achieved through the local franchising process as the Commission deliberates issuing new franchising regulations in a related proceeding.

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REPLY COMMENTS OF FAIRFAX COUNTY, VIRGINIA

I. INTRODUCTION.

Fairfax County, Virginia ("Fairfax County" or "County") submits the following reply comments in response to the Federal Communications Commission's ("Commission") Notice of Inquiry, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 06-189 (2006) ("*Notice*"), in response to comments filed in this proceeding on behalf of Comcast Corporation ("Comcast"), the Fiber-To-The-Home Council ("FTTH Council"), the National Cable & Telecommunications Association ("NCTA"), Verizon,[1] and as an update to comments filed on February 13, 2005 on behalf of the

[1] Respectively, "Comcast Comments," "FTTH Council Comments," "NCTA Comments," and "Verizon Comments." References herein to "Verizon Comments" or other claims alleged on behalf of "Verizon" refer to statements contained in comments filed in this proceeding on behalf of "Verizon" and references to Verizon VA refer to Verizon Virginia, Inc., which entered into a 2005 cable franchise agreement with Fairfax County. Fairfax County and Verizon VA enjoy a

County ("County Franchising NPRM Comments") in response to the Commission's Notice of Proposed Rulemaking, *In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket No. 05-311 (2005) ("*Franchising NPRM*").

The Fairfax County Board of Supervisors (the "Board") is the local franchising authority for Fairfax County and has a long history of encouraging competition for video services in Fairfax County. The Board has never awarded an exclusive cable franchise. Twenty-four years ago, the Board awarded its first non-exclusive cable franchise to Media General Cable of Fairfax County, Inc. ("Media General"), to serve the North County and South County franchise areas, followed by the award of a non-exclusive franchise for the Reston franchise area in 1988 to Warner Cable Communications of Reston, Inc. ("Warner").[2] Four years later, in 1992, federal law was enacted to prohibit the award of exclusive cable franchises,[3] *i.e.*, addressing an issue that did not and has never existed in Fairfax County. The non-exclusive, non-overlapping Media General and Warner franchises were ultimately transferred to Cox Communications Northern Virginia ("Cox VA") and Comcast of Virginia, Inc. ("Comcast VA"), respectively. The Board

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positive working relationship focused on ensuring the highest public safety during system construction and fostering the best possible customer service for all County residents. Similarly, references herein to "Comcast" refer to comments filed in this proceeding on behalf of Comcast Corporation and Comcast Cable Communications, LLC (collectively "Comcast") whereas references to Comcast VA refer to obligations agreed to and performance under the 1998 and 2005 franchise agreements between Fairfax County and Comcast of Virginia, Inc. Fairfax County enjoys similarly positive working relationships with Comcast VA and Cox VA.

[2] "Cable Television Franchise Agreement Between Fairfax County, Virginia and Media General Cable of Fairfax County, Inc., September 30, 1982," *available upon request*. "Franchise Agreement Dated May 16, 1988, Between the Board of Supervisors of Fairfax County, Virginia, and Warner Cable Communications of Reston, Inc.," *available upon request.*

[3] Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 12, 106 Stat. 1460 (1992) ("1992 Cable Act").

granted a non-exclusive renewal cable franchise to Media General in 1998 (now held by Cox VA), and a non-exclusive renewal cable franchise to Comcast VA in May 2005.[4]

Recognizing that competition would likely follow the enactment of the Telecommunications Act of 1996, the Board specifically structured the terms of the 1998 Media General renewal franchise agreement to ensure that its provisions could be replicated in a competitively neutral manner if wireline competition for delivery of video programming developed.[5] As outlined in greater detail in the County's Franchising NPRM comments, because of the foresight of the Board and the willingness of both parties to negotiate, in 2005, Fairfax County staff and Verizon Virginia Inc., ("Verizon VA") were able to complete negotiation of a comprehensive draft with all major terms and conditions in approximately seven weeks and, in just under three months, completed a draft franchise agreement for the Board's consideration.[6] Notably, the incumbent cable operators Cox and Comcast testified in a public hearing in favor of the award of a franchise to Verizon VA, stating that the Verizon VA franchise met the Virginia level playing field statute,[7] and that they welcomed the competition the Verizon

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[4] "A Cable Franchise Agreement By and Between Fairfax County, Virginia and Comcast of Virginia, Inc." (2005) ("Comcast VA Franchise Agreement"); "A Cable Franchise Agreement By and Between Fairfax County, Virginia and Media General Cable of Fairfax County, Inc." (1998), transferred to Cox Communications of Northern Virginia, Inc. on September 23, 2002 ("MCG Franchise Agreement" or "Cox VA Franchise Agreement"). All current Fairfax County cable franchise agreements are available at http://www.fairfaxcounty.gov/cable/regulation/cable_franchises.htm.

[5] The majority of wireline cable systems occupy and utilize the public rights-of-way to deliver service and thus require a cable franchise. 47 U.S.C. §§ 541(b)(1) and 522(7).

[6] *See* County Franchising NPRM Comments at 4-6.

[7] Va. Code Ann. § 15.2-2108(C) [repealed]. Section 15.2.-2108(C) barred localities from granting a competitive franchise "on terms or conditions more favorable or less burdensome than those in any existing … franchise…," and was replaced by Va. Code Ann. § 15.2-2108.20(B) (2006), which provides that a locality cannot regulate cable operators through the adoption or ordinances or regulations: (1) that are more onerous than ordinances or regulations adopted for

VA franchise would bring to Fairfax County.[8] The Board unanimously approved the Verizon VA Franchise Agreement on September 26, 2005, with an effective date of October 1, 2005,[9] and Verizon VA began to offer competitive cable service in Fairfax County in November 2005.[10]

The Board's award of a competitive County-wide cable franchise enabled Verizon VA to provide head-to-head competition against the incumbent cable operators in all three franchise areas within the County. At the time, the County, with more than 377,000 households, was the largest jurisdiction to award a franchise to Verizon.[11] As discussed further herein, Fairfax County granted a competitive franchise to Verizon VA some five months prior to the Virginia state legislature's decision to limit the ability of local governments to negotiate franchise terms and conditions in the belief that such actions would speed cable deployment. At the present time, there is little evidence to suggest that the new Virginia state cable franchise legislation has increased market entry by competitive cable providers.

Fairfax County's three franchise agreements guarantee that deployment of competitive cable services and any upgrades of existing cable systems will be made available to all

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existing cable operators; (b) that unreasonably prejudice or disadvantage any cable operator, whether existing or new… .

[8] County Franchising NPRM Comments at 6.

[9] "Cable Franchise Agreement By and Between Fairfax County, Virginia and Verizon Virginia Inc. (2005)" ("Verizon VA Franchise Agreement"), *available at* http://www.fairfaxcounty.gov/cable/regulation/franchise/verizon/verizon_franchise_2005.pdf.

[10] Fairfax County Franchising NPRM Comments at 7.

[11] *Verizon Wins Franchise for FiOSTV From Fairfax County*, TVover.net (September 28, 2005), *available at* http://www.tvover.net/2005/09/28/Verizon+Wins+Franchise+For+FiOS+TV+From+Fairfax+County.aspx. The Fairfax County Department of Systems Management for Human Services reported that there were 378,639 total units in the Fairfax County housing unit inventory and estimated that there would be 384,683 housing units by 2005. "*Housing Unit Inventory by Unit Type by Planning District – Fairfax County, January 2004*," *available at* http://www.fairfaxcounty.gov/demogrph/demrpts/hupd.pdf; "*Historical, Estimated and*

households within a franchise area. All franchised cable operators in Fairfax County must make cable service available to all households within the County, and without line extension charges to eighty-five percent of all households.[12] Congress and the Commission should consider to what extent new federal action, combined with existing state reciprocity and level playing field statutes, could eviscerate voluntarily negotiated build-out provisions in existing franchises.

Verizon VA has another six years to fully build out its cable system in Fairfax County, but the County has now had a full year to evaluate the impact of competitive franchised cable service, and therefore submits the information contained herein to the Commission so that the Commission may develop an accurate report to Congress regarding the status of competition in the market for the delivery of video programming. Overall, cable operators in Fairfax County have discounted prices for bundled video-broadband-telephone services. In some cases, long term contracts are required to obtain discounted prices, but in other cases, cable operators have replaced limited promotional rate offers with similarly priced rate offers that do not expire. However, despite increased competition, stand alone cable rates continue to rise, and every cable operator, including Verizon VA after one year of offering service, has announced a cable rate increase since January 1, 2006.

Finally, Fairfax County submits information to the Commission regarding the substantial amount of local and foreign language programming produced and distributed over the County's public, educational, and governmental access channels, as well as the technical issues associated with Emergency Alert System and Emergency Message System capabilities and battery back-up systems for cable telephony phone service.

Forecasted Housing Units by Planning District – Fairfax County, January 2004," *available at* http://www.fairfaxcounty.gov/demogrph/demrpts/hufpd.pdf.

[12] Fairfax County Code Section 9.1-7-2.

II. FRANCHISE BUILD-OUT REQUIREMENTS BENEFIT CONSUMERS.

As the local franchising authority for all of Fairfax County, the Fairfax County Board of Supervisors has an obligation to ensure that the benefits of competition are made available to all County residents. Nonetheless (and contrary to Verizon's generalized intimations[13]), the Board has balanced its obligations to serve all residents with the economic and technical feasibilities of build-out when negotiating build-out requirements in franchise agreements. Fairfax County disagrees with Verizon that a franchise agreement requirement to build-out an entire franchise area over a reasonable number of years is either unduly "burdensome," "tantamount to [an] 'unreasonabl[e] refus[al] to award' competitive franchises," or that authority to negotiate such provisions "should be prohibited."[14] The Board has permitted new entrants to begin immediately providing service as soon as their systems become capable; permitted the operator to define the boundaries of a initial service area, *i.e.*, a limited geographic area of the County in which build-out must be completed within three years; and granted the operator up to seven years to complete its build-out throughout the County. Furthermore, the Board has also agreed to permit cable operators to recover line extension costs where there are fewer than 30 to 35 occupied homes per line mile.[15] The requirement that a competitive provider should be able to make service available to an entire franchise area by the mid-point of the franchise term is inherently reasonable; it would be inherently unreasonable for the Commission to attempt the

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[13] *See* Verizon Comments at 17.

[14] Verizon Comments at 17.

[15] Verizon VA Franchise Agreement at Section 3.1; Comcast VA Franchise Agreement at Appendix 1; Media General Cable Franchise Agreement at Appendix 1.

prohibit the County from ensuring that benefits of competition and digital cable systems reach all County households.[16]

The core of the argument against build-out requirements is that competition need not reach all residents; that it is "simply unnecessary" to require that service be made available to every household.[17] Fairfax County could not disagree more. Reasonable build-out requirements have not only ensured that video service reaches almost every home in America, but because those same reasonable build-out requirements also applied to system upgrades, reasonable local franchise build-out requirements have also ensured that advanced services delivered over cable systems, including cable modem, have continued to reach almost every home in America. Three years after enactment of the 1992 Cable Act, the Commission reported in its *Third Annual Report* to Congress that, "at year end 1995, cable service was available to 92.7 million homes or approximately 96.7% of all television households in the United States."[18] In the Commission's most recent *Twelfth Annual Report*, the Commission reported that cable passed 108.6 million homes or 98.7% of homes with a television.[19] Moreover, NCTA reported that by June 2006, 97 million television households, 89%, were served by at least one cable system that offered high

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[16] Leslie Cauley, *FCC Hopes to Speed Phone Companies' Entry Into TV*, USA Today, Dec. 1, 2006 at B1. ("AT&T and Verizon are building advanced broadband networks so they can sell bundles of TV, voice, wireless and high-speed Internet services.")

[17] *The Communications Act: Hearings on S. 1822 Before the Senate Commerce Committee* (May 18, 1994) (Statement of Brian Roberts, President, Comcast Corporation), *cited with approval*, Verizon Comments at 16.

[18] *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 11 FCC Rcd. 2060 (1996) at ¶ 13 ("*Third Annual Report*"), *available at* http://www.fcc.gov/Bureaus/Cable/Reports/fcc96496.txt.

[19] *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, (2006) at n.30 and ¶ 30 ("*Twelfth Annual Report*"), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-06-11A1.doc.

definition television service.[20] By contrast, in June 2006, the Commission reported that nationwide, 93% of residential end users had access to cable modem service, whereas only 78% of residential end users had access to DSL service (which is not subject to build-out requirements).[21] In Virginia, the disparity is even greater – 96% of all residential end users have access to cable modem, whereas only 67% have access to DSL.[22] Applying this differential to the total households in Virginia and the nation, the cable system build-out requirements in local cable franchises have helped to ensure that broadband services have reached the estimated 838,009 Virginia households left behind by DSL and the 16.7 million U.S. housing units not served by DSL.[23]

As video service providers continue to "enhance ...traditional cable offering" by "combin[ing] existing assets with innovative new technologies"[24] to deliver more content and a "'triple play' bundle of phone, high-speed cable Internet, and video services,"[25] it will remain important that local franchising authorities retain the power to ensure that competition for such

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[20] NCTA Comments at 41.

[21] Federal Communications Commission, *High Speed Services for Internet Access: Status as of December 31, 2005* (July 2006) at Table 14, *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-266596A1.pdf.

[22] *Id.*

[23] The U.S. Census Bureau estimated 2,889,688 occupied housing units in Virginia in 2005. http://factfinder.census.gov/servlet/ACSSAFFFacts?_event=Search&_lang=en&_sse=on&geo_id=04000US51&_state=04000US51. The approximate number of Virginia households with access to cable modem but without access to DSL was calculated by subtracting from the percentage of premises with cable modem access, the percentage of premises with DSL access, and then multiplying by the number of occupied housing units ((.96 – .67) x 2,889,688). Nationally, the Commission reports there are 111.4 million occupied housing units, Notice at n.30, *i.e.*, ((.93 – .78) x 111,400,000).

[24] Comcast Comments at 60.

[25] *Id.* at 71.

services – and accompanying competitive pricing pressure – will reach every household and that the information super highway leaves no neighborhood behind.

III. BUNDLED SERVICE AND STAND ALONE CABLE PRICING IN FAIRFAX COUNTY.

In 2005, Fairfax County staff and the Consumer Protection Commission[26] recommended that the Board approve the Verizon VA Franchise Agreement. The franchise agreement was consistent with the Board's policy of supporting competition and competitive choice for consumers, and the terms of the franchise agreement ensured that any benefits of competition, including potentially lower prices, would be made available to all residents of the County because of the build-out requirements.[27] As part of its recommendation for approval, Fairfax County staff further reported to the Board that the General Accounting Office (now the Government Accountability Office), in its 2003 report, "*Issues Related to Competition and Subscriber Rates in the Cable Television Industry*," had reported that cable prices were as much as 15% lower in areas in which incumbent cable operators faced head-to-head competition from another wireline cable service provider.[28] After considering the terms of the franchise agreement and forecasted cost and service benefits for all residents, the Board unanimously approved the Verizon VA Franchise Agreement on September 26, 2005, with an effective date of October 1,

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[26] The mission of the Fairfax County Consumer Protection Commission is to help protect Fairfax County consumers from illegal, fraudulent or deceptive consumer practices in the marketplace, and to advise the Board of Supervisors on issues regarding consumer affairs and cable communications. For more information, *see* http://www.fairfaxcounty.gov/consumer/consumer_protection_comm.htm.

[27] Fairfax County Franchising NPRM Comments at 8.

[28] *Issues Related to Competition and Subscriber Rates in the Cable Television Industry*, General Accounting Office Report 04-8 (2003) at 3, *available at* http://www.gao.gov/new.items/d048.pdf.

2005, and Verizon VA began to offer competitive cable service in Fairfax County in November 2005.

Wireline competition for video services in Fairfax County is still in the nascent stage and any conclusions drawn are preliminary in nature. It appears that incumbent providers are responding to competition by offering promotional discounts to new subscribers and lower-priced bundled packages with more limited features to match the competitor's bundled rate. However, it is difficult to compare digital cable and bundled service packages between providers because of the differences between each providers' package content. In addition, more research is needed to determine what impact bundled service options have on consumer freedom to mix and match video, high-speed Internet, and telephone service options between providers, including any issues associated with the lack of portability of provider-based e-mail addresses.

At this time, Fairfax County is unable to determine whether competition has caused monthly cable rates in the County to grow at a slower rate than in franchise areas without wireline cable competition, because the most recent cable pricing data released by the Commission analyzes cable prices as of January 1, 2005,[29] and wireline competition in Fairfax County began in November 2005. It appears that in Fairfax County the competitive entrant is now offering consumers a stand alone cable package with a larger number of channels at a price point similar to the incumbents' rates. Fairfax County will continue to analyze pricing data as it becomes available.

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[29] *In the Matter of Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Statistical Report on Average Rates for Basic Service, Cable Programming Service, and Equipment,* MM Docket No. 92-266 (Dec. 27, 2006) ("*2005 Cable Price Report*") *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-06-179A1.doc.

A. Bundled Cable Service Prices in Fairfax County.

1. Analysis of Bundled Cable Service Rates.

Comparisons of bundled cable service rates are difficult because providers do not offer identical service packages. Rather than attempting to force a comparison of different bundled service packages between providers, Fairfax County presents the following information comparing each provider's bundled packages with the price if similar services were purchased separately from that same provider. Most but not all of the bundled service offerings offered by the franchised providers suggest price discounts for services in a bundled package versus if provided separately. However, it is unclear how much if any of the applicable bundle service package discounts are attributable to competitive forces in the marketplace, or to generally accepted industry practices (which occur in both noncompetitive and competitive markets) to provide discounts to bundled services.

a. *Cox VA Bundled Service Packages.*

In January 2007, Cox VA will offer three bundled service packages:[30]

COX VA BUNDLED PACKAGE COMPARISON

"Value" Bundle	"Preferred" Bundle	"Value Plus" Bundle
Expanded Basic	Expanded Basic	Expanded Basic
Cox High Speed Internet Value (768 Kbps download)	Digital Gateway	Cox High Speed Internet Preferred (5 Mbps download)
Primary Telephone Line	One Digital Tier	Cox Connections Unlimited (Unlimited local and long distance, caller ID, call waiting, voice mail)
	Digital Receiver	
	Cox High Speed Internet Preferred (5 Mbps download)	
	Primary Telephone Line	
Additional Equipment Costs	Additional Equipment Costs	Additional Equipment Costs
Converter Box & Remote	Converter Box & Remote (Unbundled Service Only)	Converter Box & Remote
Cable Modem	Cable Modem	Cable Modem

[30] Attachment A – 2, Cox 2006 Annual Customer Notice – Prices Effective November 1, 2006.

COX VA BUNDLED PACKAGE COMPARISON

"Value" Package	"Preferred" Package	"Value Plus" Package
Purchased Separately:	Purchased Separately:	Purchased Separately:
$ 102.87	$ 126.82	$ 154.92
Purchased as Bundled Package:	Purchased as Bundled Package:	Purchased as Bundled Package:
$ 96.98	$ 114.99	$ 133.98
Bundled Savings:	Bundled Savings:	Bundled Savings:
$ 5.89 / 5.73%	$ 11.83 / 9.33%	$ 20.94 / 13.52%

The lowest priced Cox VA Value Bundle package does not include digital programming, would require a separate analog receiver rental fee, and provides an Internet connection that, while at the lower threshold of broadband service, is comparable to DSL speed.[31] This package may have appeal to consumers who have minimum video, Internet and telephone needs. Cox VA's Preferred Bundled package is the only Cox VA bundle that offers digital video programming. Finally, the Value Plus package offers the greatest bundling discount, saving consumers over thirteen percent.

This package is comparably priced to match Verizon VA's standard bundled package – both the Cox VA and Verizon VA bundled package offer unlimited long distance and local calling and Internet download speeds of up to 5 Mbps, and both require an additional equipment rental charge – but the Cox VA Value Plus Bundle does not offer digital programming and the consumer would have to pay an additional $10.95 to receive digital programming comparable to the Verizon VA bundled package.[32]

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[31] In advertisements, Cox VA states that Internet service requires a cable modem but offers a free cable modem to new subscribers while supplies last. Attachment A – 1, Cox Connections Bundle Advertisement (offer ends January 8, 2007).

[32] Attachment A – 2, Cox 2006 Annual Customer Notice – Prices Effective November 1, 2006; Attachment C – 7, Verizon FiOS TV Channel Line Up, Fairfax County/Falls Church/Herndon Channel Lineup (1/06).

b. *Comcast VA Bundled Service Packages.*

Comcast VA offers discounts on its high-speed Internet service when bundled with analog or digital cable programming packages and also offers discounts on its Voice-over-Internet-protocol ("VoIP") telephone service when bundled with either cable or Internet services. However, Comcast VA does not advertise prices for its triple play bundle packages on its rate card.[33] Comcast VA does offer its cable subscribers a $15.00 discount on the purchase of its 6Mbps/768Kbps or 16Mbps/1Mbps high-speed Internet service. Based on telephone conversations with Comcast VA's customer service representatives, if an existing Comcast VA customer would like to purchase Comcast VA's unlimited local and long distance VoIP telephone service, Comcast will discount the regular $57.95 rate to $39.95.

COMCAST VA SAMPLE BUNDLED PACKAGE COMPARISON

Analog Bundle	**Digital Bundle**	**Fastest High Speed Bundle**
Full Basic High Speed Internet (6 Mbps download) Digital Voice (Unlimited local and long distance, caller ID, call waiting, on-line voice mail)	Full Basic Digital Plus High Speed Internet (6 Mbps download) Digital Voice (Unlimited local and long distance, caller ID, call waiting, on-line voice mail)	Full Basic Digital Plus Highest Speed Internet (16 Mbps download) Digital Voice (Unlimited local and long distance, caller ID, call waiting, on-line voice mail)
Additional Equipment Costs Digital Converter Box & Remote Cable Modem	Additional Equipment Costs Digital Converter Box & Remote Cable Modem	Additional Equipment Costs Digital Converter Box & Remote Cable Modem
Analog Package Purchased Separately: $ 173.52 Purchased as Bundled Package: $ 140.52 Bundled Savings: $ 33.00 / 19.02%	**Digital Package** Purchased Separately: $ 188.47 Purchased as Bundled Package: $ 155.47 Bundled Savings: $ 33.00 / 17.51%	**Fastest High Speed Package** Purchased Separately: $ 198.47 Purchased as Bundled Package: $ 165.47 Bundled Savings: $ 33.00 / 16.63%

[33] Attachment B – 3, Comcast Reston Rates, Service Charges & Channel Lineup – Effective 10/06.

The Comcast VA video package most comparable to Verizon VA's standard video packages is Comcast VA's Digital Plus package. However, the Comcast VA package includes several premium (commercial free) Encore movie channels and the Sundance channel that are only available at additional cost from Verizon VA. Thus it is difficult to compare Comcast VA's video programming bundled rate component with either Verizon VA or Cox VA's packages because Comcast VA offers additional Premium channels in its bundling offers.[34]

c. *Verizon VA Bundled Service Packages.*

Verizon VA entered the market with an all digital fiber optic network, whereas Cox VA and Comcast VA have upgraded their systems to create hybrid coaxial fiber systems. Thus, Verizon VA offers only a digital tier package and does not offer smaller channel packages equivalent to the analog packages offered by Cox VA and Comcast VA. In comparing all three providers' expanded basic tier packages, Verizon VA's expanded basic, now named FiOS Premium, is equivalent to Cox VA's Digital Gateway plus Digital Discovery and Digital Variety packages and Comcast VA's Digital Plus package (albeit, Comcast VA's Digital Plus package includes several premium movie channels available for an additional fee to Verizon VA subscribers).[35]

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[34] *Id.*

[35] Attachment C – 7 Verizon FiOS TV Channel Line Up, Fairfax County/Falls Church/Herndon Channel Lineup (1/06); Attachment A-2, Cox 2006 Annual Customer Notice – Prices Effective November 1, 2006; Attachment B-2, Comcast Reston Rates, Service Charges & Channel Lineup – Effective 10/06.

VERIZON VA SAMPLE BUNDLED PACKAGE COMPARISON

Local Phone Bundle	**Unlimited L/D Bundle**	**Fastest High Speed Bundle**
FiOS Premium	FiOS Premium	FiOS Premium
FiOS Internet (5 Mbps download)	FiOS Internet (5 Mbps download)	Fastest FiOS Internet (15 Mbps download)
Unlimited Local	Verizon Freedom Value (Unlimited local and long distance)	Verizon Essentials (Unlimited local and long distance, caller ID, call waiting, and voice mail)
Additional Equipment Costs	Additional Equipment Costs	Additional Equipment Costs
Digital Converter Box & Remote	Digital Converter Box & Remote	Digital Converter Box & Remote
Local Phone FiOS Package	**FiOS Freedom Value Package**	**FiOS Essentials Package**
Purchased Separately: $ 105.85	Purchased Separately: $ 123.80	Purchased Separately: $ 138.80
Purchased as Bundled Package: $ 100.85	Purchased as Bundled Package: $ 118.80	Purchased as Bundled Package: $ 133.80
Bundled Savings: $ 5.00 / 4.72%	Bundled Savings: $ 5.00 / 4.04%	Bundled Savings: $ 5.00 / 3.60%

Verizon VA recently announced that it would be increasing the prices of its FiOS Premium Package and Movie and Sports Tiers, effective January 22, 2007, for all new customers and new service additions, but also announced that it would drop its Existing Outlet Hookup initial installation charge from $50.00 to no charge. Thus after January 22, 2007, Verizon sample package rates would be as follows:[36]

VERIZON VA BUNDLED PACKAGE COMPARISON

As of January 22, 2007

Local Phone FiOS Package	**FiOS Freedom Value Package**	**FiOS Essentials Package**
Purchased Separately: $ 109.93	Purchased Separately: $ 127.88	Purchased Separately: $ 142.88
Purchased as Bundled Package: $ 104.93	Purchased as Bundled Package: $ 122.88	Purchased as Bundled Package: $ 137.88
Bundled Savings: $ 5.00 / 4.55%	Bundled Savings: $ 5.00 / 3.91%	Bundled Savings: $ 5.00 / 3.50%

[36] Attachment C – 3, Letter from Paul Miller, Franchise Service Manager, Verizon VA, to Director of Communications, Fairfax County, (Nov. 20, 2006), and Attachment C – 4, Verizon FiOS TV 2006 Annual Customer Notification: Programming and Equipment Rates – Effective January 14, 2006. On December 20, 2006, a Verizon VA representative informed the County that Verizon VA would delay implementation of its planned price increases from January 14, 2007 until January 22, 2007.

However, if service is cancelled between two and eleven months, an early termination fee of $99.00 may apply. Verizon's digital service also requires rental of a digital converter box, which will increase in price from $3.95 to $4.99 effective January 14, 2006. Thus, after entering the Fairfax County market with an initial $118.80 bundled service and equipment rate, in under fourteen months, Verizon will have increased its bundled service and equipment package rate by 3.43% to $122.88.[37]

2. Comparisons of Bundled Service Rates Adjusted for Promotional Offers Do Not Provide a Meaningful Picture of Long Term Pricing.

The County notes that the Bank of America Equity Research report cited as support for FTTH Council arguments that cable operators have dropped their bundled service package prices "by over 20%" as a result of Verizon's entry into the market,[38] is based on the inclusion of unpublished promotional prices. Bank of America itself stated that its bundled price comparisons reflect the value of temporary price promotions and unpublicized offers provided over the telephone by customer service representatives and <u>do not reflect long term prices</u>:

> As we wrote last quarter, we note that these are in many cases un-advertised offers and we believe that they do not necessarily represent the equilibrium pricing that will prevail longer term in these markets. Some organizations have cited our report as evidence that competitive video entry by the Bells will substantially reduce cable prices. Since these are unadvertised prices, we would disagree with the assertion that these prices represent a snapshot of potential future equilibrium pricing.[39]

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[37] Verizon also offered an additional $5.00 to $10.00 initial promotional discount. *See* Attachment C – 6, FiOS Internet/Phone Advertisement (Expires 8/31/06), and Attachment C – 5, FiOS Video/Internet/Phone Advertisement (Expires 12/31/06).

[38] FTTH Council Comments at 11-12.

[39] Bank of America Equity Research, *Battle for the Bundle: Consumer Wireline Services Pricing*, April 18, 2006, at 18. *Available upon request.*

Therefore, data reported in the Bank of America report should not be used as evidence that future bundled service rates will decrease as competition enters the market.

3. The Commission Should Examine the Consumer Impact of Bundled Service Packages.

Finally, the County also asks the Commission to investigate how the bundling of services affects consumer choice among providers and service packages. As NCTA notes, Internet speed matters less to "those who use the Internet mainly for sending e-mail and reading online newspapers and blogs."[40] To what extent are consumers required to purchase additional Internet services to receive pricing discounts on video services? To what extent are consumers required to pay higher Internet prices if they do not agree to also purchase video services?[41] To what extent are providers pricing stand alone services at higher prices to encourage consumers to purchase bundled services? These questions and other consumer-based inquiries should also be part of the Commission's inquiry to determine the effect that head-to-head competition has had on bundled pricing of cable services.[42]

B. Stand Alone Cable Rates in Fairfax County.

As discussed above, prior to the entry of Verizon VA, Fairfax County had two franchised wireline cable operators who did not compete against each other head-to-head. Fairfax County's three non-overlapping cable franchise areas are North County, South County, and Reston.[43] Cox

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[40] NCTA Comments at 42.

[41] In Fairfax County, 78.1% of all households currently have some form of Internet access, but only 58.7% of households with an annual household income between $50,000 and $25,000, and 35.4% of households with an annual household income of less than $25,000, have Internet access. *2000 Fairfax-Falls Church Community Assessment: General Overview* at p.3, *available at* http://www.fairfaxcounty.gov/demogrph/pdf/cas_overview.pdf.

[42] *See Notice* at ¶ 7.

[43] Fairfax County Code Section 9.1-7-1.

VA and its predecessor have provided service in the North and South County franchise areas since 1982. Comcast VA and its predecessors have served Reston since 1988. Verizon VA has a franchise to serve all three franchise areas and began providing competitive service in November 2005. Thus, Fairfax County cable pricing data includes cable rates in a noncompetitive environment, prior to Verizon's market entry, and cable rates in a competitive environment. Fairfax County is also including data regarding providers' announced cable rates as of January 1, 2007, and rates effective January 22, 2007, for Verizon VA.

1. Fairfax County 2004 Stand Alone Cable Rates Are Consistent with Commission Reported National Average Cable Rates In Noncompetitive Franchise Areas.

In the *2004 Cable Price Report*, the Commission reported a national average monthly cable rate which included the cost of expanded basic tier programming service and converter box and remote control equipment.[44] The Commission also broke out and compared the average monthly cable rate in areas not subject to effective competition, denoted as "Noncompetitive Areas," and the average monthly cable rate in areas subject to effective competition, denoted as "Competitive Areas." In December 2006, the Commission released similar data for cable rates as of January 1, 2005 in the *2005 Cable Price Report.* Fairfax County urges the Commission to complete its work on the 2006 Cable Price Report and to release data regarding cable prices as of January 1, 2006, and January 1, 2007, as soon as possible.

On January 1, 2004, the monthly cable rate charged by Fairfax County's largest incumbent cable operator was slightly more than the national monthly competitive rate reported

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[44] *In the Matter of Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Statistical Report on Average Rates for Basic Service, Cable Programming Service, and Equipment*, MM Docket No. 92-266 (Feb. 4, 2005) at Table 1 ("*2004 Cable Price Report*").

by the Commission but substantially less than the national monthly noncompetitive rate reported by the Commission in the *2004 Cable Price Report*. However, on January 1, 2004, the monthly cable rate charged by Fairfax County's smaller incumbent cable operator was more than the national noncompetitive rate reported by the Commission. By January 1, 2005, Fairfax County largest incumbent had raised its monthly cable rate by two percent while the County's smaller incumbent had not raised its rate. But in comparison to the national monthly cable rate data reported by Commission in the *2005 Cable Price Report*, on January 1, 2005, Fairfax County's largest incumbent charged less than the both the national competitive and noncompetitive rates, and the County's smaller incumbent charged slightly less than the national noncompetitive rate.

Table 1
FCC Reported National Average Monthly Cable Rates As Compared To Fairfax County Monthly Cable Rates Jan. 2004

Service Elements	FCC Average[i]	FCC Competitive[ii]	FCC Noncompetitive[iii]	Cox VA[iv]	Comcast VA[v]
	Jan. 1, 2004	Jan. 1, 2004	Jan. 1, 2004	Jan. 1, 2004	Jan. 1, 2004
Basic Service	$ 13.80	$ 14.58	$ 13.73	$ 12.70	$ 13.45
Expanded Basic (includes Basic)[vi]	**$ 41.04**	**$ 38.17**	**$ 41.29**	**$ 40.40**	**$ 44.85**
Converter & Remote Control	$ 4.28	$ 4.31	$ 4.27	$ 2.61	$ 2.59
Monthly Cable Rate[vii]	**$ 45.32**	**$ 42.48**	**$ 45.56**	**$ 43.01**	**$ 47.44**

[i] *2004 Cable Price Report* at Table 1.
[ii] *2004 Cable Price Report* at Table 3. Competitive rates are derived from communities in which the FCC has made a finding of effective competition.
[iii] *2004 Cable Price Report* at Table 3. Noncompetitive rates are derived from communities in which the FCC has not made a finding of effective competition.
[iv] Cox 2003 Annual Customer Notice – Prices Effective November 1, 2003.[45]
[v] Comcast FCC Form 1240 at Worksheet 8 - True-Up Rate Charged contains information for 12/01/03 to 11/30/04 (filed Nov. 29, 2004).[46] (Comcast Channel Lineup & Rates – Effective 1/04 lists the monthly rate for Expanded Basic as $19.00. However, the FCC Form 1240 True-Up Rate is listed as $13.45, and Comcast Channel Line-Up & Rates – Effective 8/03 and 10/04 list the Expanded Basic Rate as $13.45, consistent with the True-Up Rate. Therefore, the 1/04 Channel Lineup & Rates is presumed to contain a typographical error.)[47]
[vi] "Expanded Basic" is the combined costs of the Basic and Expanded Basic Service programming tiers. Expanded Basic cannot be purchased separately.
[vii] "Monthly Cable Rate" includes the cost of the Expanded Basic Service tier (in combination with the Basic Service Tier if the Basic Service Tier is sold separately), Analog Addressable Converter Box and Remote Control.

[45] Attachment A – 5.

[46] Attachments B – 6.

[47] *See* Attachments B – 5, B –6, B – 8, B – 9 and B – 7.

Table 2 FCC Reported National Average Monthly Cable Rates As Compared To Fairfax County Monthly Cable Rates Jan. 2005					
Service Elements	FCC Overall[i]	FCC Competitive[ii]	FCC Noncompetitive[iii]	Cox VA[iv]	Comcast VA[v]
	Jan. 1, 2005	Jan. 1, 2005	Jan. 1, 2005	Jan. 1, 2005	Jan. 1, 2005
Basic Service	$ 14.30	$ 14.80	$ 14.25	$ 14.70	$ 13.45
Expanded Basic (includes Basic)[vi]	**$ 43.04**	**$ 40.15**	**$ 43.33**	**$ 40.40**	**$ 44.85**
Converter & Remote Control	$ 4.28	$ 4.54	$ 4.38	$ 3.50	$ 2.59
Monthly Cable Rate[vii]	**$ 45.32**	**$ 44.69**	**$ 47.71**	**$ 43.90**	**$ 47.44**

[i] *2005 Cable Price Report* at Table 1 (Basic and Expanded Basic); Table 5 (Analog Equipment Prices); and Table 6 (Average Monthly Price for Programming and Equipment).
[ii] *2005 Cable Price Report* at Tables 1, 5, and 6. Competitive rates are derived from communities in which the FCC has made a finding of effective competition and relieved cable operators from rate regulation.
[iii] *2005 Cable Price Report* at Tables 1, 5, and 6. Noncompetitive rates are derived from communities in which the FCC has not made a finding of effective competition.
[iv] Cox 2004 Annual Customer Notice – Prices Effective November 1, 2004.[48]
[v] Comcast Channel Lineup & Rates – Effective 10/04.[49]
[vi] "Expanded Basic" is the combined costs of the Basic and Expanded Basic Service programming tiers. Expanded Basic cannot be purchased separately.
[vii] "Monthly Cable Rate" includes the cost of the Expanded Basic Service tier (in combination with the Basic Service Tier if the Basic Service Tier is sold separately), Analog Addressable Converter Box and Remote Control.

Between January 1, 2004 and January 1, 2005, monthly cable rates in Fairfax County rose at a slower rate than all monthly cable rate increases reported by the Commission in areas without effective competition, with any form of effective competition, with effective competition from a second wireline cable provider, or with effective competition from a DBS provider. As the Commission makes more current cable pricing data available, the Commission may be able to use the following data supplied by Fairfax County as a test case to determine whether rates in Fairfax County are rising at a slower rate as compared to rates in "Noncompetitive Areas."

[48] Attachment A – 4.

[49] Attachment B – 7.

Table 3 Fairfax County Monthly Cable Rates As Compared to FCC National Average, Noncompetitive, Cable-Competitive, and DBS-Competitive Monthly Cable Rates, Jan 2004 and Jan. 2005.						
Average Price for Programming and Equipment	Cox VA	Comcast VA	FCC Average/ Overall	FCC Noncompetitive	FCC Cable Competition	FCC DBS Competition
2004 Monthly Cable Rate[i]	$ 43.01	$ 47.44	$ 45.32	$ 45.56	$ 39.37	$ 43.94
2005 Monthly Cable Rate[ii]	$ 43.90	$ 47.44	$ 47.43	$ 47.71	$ 40.23	$ 47.77
2004 – 2005 Annual Change	$ 0.89	$ 0.00	$ 2.11	$ 2.15	$ 0.86	$ 3.83
2004 – 2005 Percentage Increase	**2.07%**	**0.00%**	**4.66%**	**4.72%**	**2.18%**	**8.72%**

[i] "Monthly Cable Rate" includes the cost of the Expanded Basic Service tier (in combination with the Basic Service Tier if the Basic Service Tier is sold separately), Analog Addressable Converter Box and Remote Control or Verizon's Standard Definition Digital Converter Box for Fairfax County. County Average source is Table 1 herein. FCC Average source is *2004 Cable Price Report* at Table 1 and all other FCC rates are from *2004 Cable Price Report* at Attachment 6.
[ii] County Average source is Table 2 herein. FCC data source is the *2005 Cable Price Report* at Table 6.

2. Competition Has Not Yet Reached the Majority of Fairfax County Households and Does Not Yet Appear to Be Restraining Monthly Cable Rates.

Head-to-head competition between wireline cable operators did not exist in Fairfax County prior to November 2005. During the period between January 1, 2004, and January 1, 2005, in which there was no direct head-to-head wireline cable competition, Cox VA's monthly cable rate rose by two percent but Comcast VA's monthly rate did not rise. Verizon VA provided almost no competition in 2005, and between January 1, 2005 and January 1, 2006, Cox VA's monthly cable rate rose by more than three percent and Comcast VA's monthly cable rate rose by almost eleven percent. Verizon offered service throughout 2006, but by the end of 2006, Fairfax County staff estimates that Verizon system will only serve one-third of Fairfax County households. During the period of limited head-to-head wireline cable competition, between January 1, 2006 and January 22, 2007, Cox VA monthly cable rates will rise by more than five percent, Comcast VA's monthly cable rates will rise by almost four percent, and Verizon VA's monthly cable rates will rise by more than nine percent. Thus, despite head-to-head competition from Verizon VA, albeit geographically limited, every cable provider in

Fairfax County has announced a rate increase in the past year and cable rates have risen at a faster rate as compared to when no head-to-head wireline cable competition existed in the County.[50] Moreover, as of January 22, 2007, Verizon VA will raise its total monthly cable rate for services and equipment to match exactly the $47.98 total monthly rate of its largest competitor Cox VA.[51]

Table 4
Fairfax County Monthly Cable Rates January 2004 to January 2006

Service Elements	January 1, 2004 to January 1, 2005				January 1, 2005 to January 22, 2006					
	2005 Noncompetitive Operators				2006 Competitive Operators					
	Cox VA[i] Jan. 1, 05	Annual % Change[ii]	Comcast VA[iii] Jan. 1, 05	Annual % Change	Cox VA[iv] Jan. 1, 06	Annual % Change	Comcast VA[v] Jan. 1, 06	Annual % Change	Verizon VA[vi] Jan. 22, 06	Annual % Change
Basic Service	$ 14.70	15.75%	$ 13.45	0.00%	$ 17.99	22.38%	$ 14.95	11.15%	$ 12.95	NA
Expanded Basic[vii]	$ 40.40	0.00%	$ 44.85	0.00%	$ 41.99	3.94%	$ 49.88	11.22%	$ 39.95	NA
Converter & Remote Control[viii]	$ 3.50	34.10%	$ 2.59	0.00%	$ 3.50	0.00%	$ 2.74	5.79%	$ 3.95	NA
Monthly Cable Rate[ix]	$ 43.90	2.07%	$ 47.44	0.00%	$ 45.49	3.62%	$ 52.62	10.92%	$ 43.90	NA

[i] Cox 2004 Annual Customer Notice – Prices Effective November 1, 2004.[52]
[ii] "Annual % Change" is the change as of the date shown compared to one year early ((Current Year – Previous Year) / Previous Year).
[iii] Comcast Channel Lineup & Rates – Effective 1/1/05.[53]
[iv] Cox 2005 Annual Customer Notice – Prices Effective November 1, 2005.[54]
[v] Letter from Marie Schuler, Director of Government & Community Affairs, Comcast Cable, to Walter Munster, Cable Regulatory Division, Fairfax County, Virginia (Nov. 1, 2005) at p.2.[55] Letter from Marie Schuler, Director of Government & Community Affairs, Comcast Cable, to Walter Munster, Director, Communications Policy and Regulation Division, Fairfax County, Virginia (May 27, 2005) at p.1.[56]
[vi] Verizon FiOS TV Rates & Packages (11/05).[57] Verizon's Expanded Basic includes channels offered as part of the other providers' digital tiers and Verizon only offers digital converter boxes.
[vii] "Expanded Basic" is the combined costs of the Basic and Expanded Basic Service programming tiers. Expanded Basic cannot be purchased separately. Comcast marketed this tier as "Basic Plus" in 2005 and as "Standard Basic" in 2006.
[viii] "Converter & Remote Control" includes Cox VA and Comcast VA's Analog Addressable Converter Box and Remote Control and Verizon's Standard Definition Digital Converter Box as Verizon does not offer analog converter boxes.
[ix] "Monthly Cable Rate" includes the cost of the Expanded Basic Service tier (in combination with the Basic Service Tier if the Basic Service Tier is sold separately), Analog Addressable Converter Box and Remote Control or Verizon's Standard Definition Digital Converter Box.

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[50] In addition, on December 28, 2006, Comcast VA notified the County that Comcast will increase its Expanded Basic and Converter Box rates effective March 1, 2007.

[51] Attachment A – 2, Cox 2006 Annual Customer Notice – Prices Effective November 1, 2006; Attachment C – 1, Letter from Paul Miller, Franchise Service Manager, Verizon VA, to Gail Condrick, Department of Cable Communications and Consumer Protection, Fairfax County, (Nov. 15, 2006);Attachment C – 2, Verizon Rates Effective 1/14/07; Attachment C – 8, Verizon FiOS TV rates & Packages (11/05).

[52] Attachment A – 4.

[53] Attachment B – 5.

Table 5 Fairfax County Announced Monthly Cable Rates January 2007						
Service Elements	Cox VA[i] Jan. 1, 2007	Annual Percentage Change[ii]	Comcast VA[iii] Jan. 1, 2007	Annual Percentage Change	Verizon VA[iv] Jan. 22, 2007	Annual Percentage Change
Basic Service	$ 17.99	0.00%	$ 14.95	0.00%	$ 12.99	0.31%
Expanded Basic Service[vi]	$ 43.99	4.76%	$ 51.88	4.01%	$ 42.99	7.61%
Converter & Remote Control[vii]	$ 3.99	14.00%	$ 2.84	3.65%	$ 4.99	26.33%
Monthly Cable Rate[viii]	**$ 47.98**	**5.47%**	**$ 54.72**	**3.99%**	**$ 47.98**	**9.29%**

[i] Cox 2006 Annual Customer Notice – Prices Effective November 1, 2006.[58]
[ii] "Annual Percentage Change" is the change as of the date shown compared to one year early ((Current Year – Previous Year) / Previous Year).
[iii] Comcast Reston Rates, Service Charges & Channel Lineup – Effective 10/06.[59]
[iv] Verizon FiOS TV 2006 Annual Customer Notification, Programming and Equipment Rates – Effective January 14, 2007.[60] Verizon's Expanded Basic includes channels offered as part of the other provider's Digital Tier and Verizon only offers digital converter boxes. In 2007, Verizon will market its service Tiers as FiOS TV Local (Basic) and FiOS TV Premier. Verizon's price increase is effective 1/14/07 for new customers or new services but will not affect rates of existing customers. Verizon subsequently verbally notified the County that the price increase would not take effect until 1/22/07.
[v] "Annual Change" is the change as of the date shown compared to one year early ((Current Year – Previous Year) / Previous Year).
[vi] "Expanded Basic" is the combined costs of the Basic and Expanded Basic Service programming tiers. Expanded Basic cannot be purchased separately. Comcast will market this tier as "Full Basic" beginning in 2007.
[vii] "Converter & Remote Control" includes Cox VA and Comcast VA's Analog Addressable Converter Box and Remote Control and Verizon's Standard Definition Digital Converter Box as Verizon does not offer analog converter boxes.
[viii] "Monthly Cable Rate" includes the cost of the Expanded Basic Service tier (in combination with the Basic Service Tier if the Basic Service Tier is sold separately), Analog Addressable Converter Box and Remote Control or Verizon's Standard Definition Digital Converter Box.

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[54] Attachment A – 3.

[55] Attachment B – 3.

[56] Attachment B – 4.

[57] Attachment B – 8.

[58] Attachment A – 2.

[59] Attachment B – 2.

[60] Attachment C – 4.

Table 6 Fairfax County Percentage Change in Monthly Cable Rates Between January 2004 and January 2007.				
Service Elements	Cox VA[i]	Comcast VA[i]	Verizon VA[ii]	
	Jan. 1, 2004 – Jan. 1, 2007	Jan. 1, 2004 – Jan. 1, 2007	Jan. 1, 2004 – Jan. 1, 2006	Jan. 1, 2006 – Jan. 22, 2007
Basic Service	41.65 %	11.15 %		0.31 %
Expanded Basic Service[iii]	8.89 %	15.67 %		7.61 %
Converter & Remote Control[iv]	52.87 %	9.65 %		26.33 %
Monthly Cable Rate[v]	**11.56 %**	**15.35 %**	**NA**	**9.29 %**

[i] Tables 1 and 4 herein.
[ii] Table 4 herein.
[iii] "Expanded Basic" is the combined costs of the Basic and Expanded Basic Service programming tiers. Expanded Basic cannot be purchased separately.
[iv] "Converter & Remote Control" includes Cox VA and Comcast VA's Analog Addressable Converter Box and Remote Control and Verizon's Standard Definition Digital Converter Box as Verizon does not offer analog converter boxes.
[v] "Monthly Cable Rate" includes the cost of the Expanded Basic Service tier (in combination with the Basic Service Tier if the Basic Service Tier is sold separately), Analog Addressable Converter Box and Remote Control or Verizon's Standard Definition Digital Converter Box.

3. Impact of Nascent Competition On Cable Rates Is Uncertain.

The Commission should not premise its attempts to restrict local franchising on the argument that competitive wireline cable competition will reduce consumer cable prices until a more reliable factual record on cable pricing can be developed. Given that head-to-head wireline cable competition is in its nascent stage, sufficient time has not elapsed to compile a comprehensive record regarding the impact of such competition on monthly cable rates. In the *2004* and *2005 Cable Price Reports*, the Commission reported that in areas with effective competition, average monthly cable rates (programming services and equipment combined rates) were 15.7% and 17% lower than in areas not subject to effective competition.[61] Verizon cites this rate differential from the Commission's *2004 Cable Price Report* and other circumstantial

[61] *2004 Cable Price Report* at Table 4; *2005 Cable Price Report* at ¶ 2. Fairfax County notes, however, that without explanation, in the *2005 Cable Price Report*, the Commission reports average monthly rates in effective as of January 1, 2004, that vary from average monthly rates in effective as of January 1, 2004, as reported in *2004 Cable Price Report*.

data as evidence that "competition works" to create "reduced prices."[62] Fairfax County disputes this argument – the *2004 Cable Price Report* and the *2005 Cable Price Report* are not predictors of the future impact of competition on cable pricing, but rather are only a measure of past rates. Other commenters have cited promotional rates as evidence that competition will dramatically lower rates.[63] But when the impact of nascent competition on non-promotional rates is assessed, as demonstrated in the preceding Tables, there is no apparent evidence to suggest that nascent competition lowers stand alone cable rates. And absent the release of more current data by the Commission that would indicate otherwise, it is difficult to determine whether nascent competition is restraining the growth of cable rates, as compared to other franchise areas without wireline cable competition.

The Board recognizes that total price is but one measure of competitive impact. Competition can bring consumers greater video choice and spur improved customer service.[64] There may also be compelling economic incentives for new competitors to develop business plans that match incumbent prices and offer more channels and services, such as expanded

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[62] Verizon Comments at 9, 8.

[63] FTTH Council Comments at 11-12.

[64] Verizon Comments at 8. Moreover, Verizon VA's all digital system is capable of carrying more channels in the expanded basic tier, whereas Cox VA and Comcast VA must place additional channels beyond each systems' analog capacity in a digital tier, and charge consumer additional fees to receive digital tier programming. The County notes that the Commission's *2004 Cable Price Report* calculates the cost per channel, but in part because this implies that all channels are of equal value and that a cable system offering more channels with lower viewership is providing a better per channel value than a system offering fewer but more popular channels at the same price, the Commission opted not to report per channel costs in the *2005 Cable Price Report*. Fairfax County suggests that the Commission consider comparing the monthly cable price to receive the top fifteen programming services by prime time rating, *i.e.*, the most popular non-broadcast channels. These programming services as reported in the *2004 Cable Price Report* are in order: Nickelodeon, TNT, Nick at Night, USA Network, Disney, Lifetime, Toon Disney, TBS, Spike TV, Fox News Channel, History Channel, ESPN, MTV, Discovery Channel and Sci Fi Channel.

video-on-demand libraries, rather than business plans that dramatically lower prices, the rates of capital recovery, and per subscriber revenues. In this proceeding, Verizon reported that it will spend almost $1,600 per home to deploy its fiber network, and the FTTH Council reports that the industry will expend over $11 billion during 2006 in capital improvements.[65] The *2005 Cable Price Report* did not likely reflect significant fiber network costs, but future cable pricing data likely will,[66] and it may be that high capital costs of deploying new fiber optic systems offset the potential impact of competition on stand alone monthly cable rates.

Yet, the Board must agree with Comcast that the Commission's policy analysis must "be driven by marketplace facts, not preconceived notions."[67] Just as there is little evidence to support claims that elimination of local franchising and build-out requirements will spur deployment, there is scant evidence that competition will reduce stand alone cable rates, and indeed is not consistent with developments in Fairfax County.[68]

IV. THE 2006 VIRGINIA CABLE FRANCHISING LEGISLATION HAS NOT LED TO A MARKED INCREASE IN CABLE SYSTEM DEPLOYMENT IN VIRGINIA.

Verizon VA initially approached the County to negotiate a cable franchise agreement in late 2004. However, Verizon VA immediately abandoned that effort and instead worked to get legislation introduced in the Virginia General Assembly to eliminate or dramatically restrict local cable franchising. While that legislation was pending, Verizon VA made no further attempt to

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[65] Verizon Comments at 10; FTTH Council Comments at 27.

[66] Verizon began offering video service on September 22, 2005, *see* FTTP Chronology *available at* http://newscenter.verizon.com/kit/fiber/events.html; and AT&T began video service in December 2005, *see* AT&T U-Verse Timeline *available at* http://www.att.com/Uverse/files/UverseTimeline.pdf.

[67] Comcast Comments at 6.

[68] *See* Table 5 herein.

negotiate a franchise with the County. At that time, the County and Comcast VA were concluding their negotiations on a renewal franchise, and Comcast VA suspended its negotiations with the County to focus its resources on the legislature. After that 2005 legislation proved unsuccessful, Comcast VA resumed its negotiations and the Board approved the Comcast renewal franchise agreement in May 2005. Verizon VA also re-initiated contact with the County and undertook negotiations, and the Board awarded Verizon VA its cable franchise in September 2005.

Soon after, however, Verizon again lobbied during the 2006 Virginia state legislative session to limit the authority of local governments in the state to negotiate franchise terms and conditions. Fairfax County opposed such legislation unless it was amended to preserve more local authority. The proposed legislation subsequently was amended to include a grandfather provision to preserve the terms of existing cable franchise agreements in any locality that granted a competitive cable franchise before the effective date of the legislation. Verizon and other cable operators did not oppose the grandfather provision but added an additional provision that would allow existing franchisees to demand all applicable terms and conditions in their entirety granted to any future franchisee in lieu of an existing franchise. House Bill 1404 and Senate Bill 706 were approved by the Virginia General Assembly and subsequently enacted into the Virginia Code.

As the Commission voted to issue new regulations that reportedly would impose a shot clock on negotiations, the County is concerned that the Commission's analysis in the *Notice* of time limits contained in the new Virginia legislation suffers from a lack of detail. In footnote 13 of the *Notice*, the Commission summarizes: "The Virginia statute allows telecommunications providers with existing authority to public rights-of-way to begin providing video service within

75 days of filing a request to negotiate with a local franchising authority." (emphasis added) As added by the new legislation, the relevant Virginia statute states: "An applicant shall request and make itself available to participate in cable franchise negotiations ... at least 45 calendar days prior to filing a notice electing an ordinance franchise."[69] There is nothing to suggest that the state requirement to make one's self available to participate in cable franchise negotiations was intended to be a mere *pro forma* notice requirement. As previously recounted in the County's Franchising NPRM Comments, a provider's commitment to allocate sufficient staff resources and to meaningfully engage in negotiations is a determinative factor in a successful franchise negotiation.[70] The County urges the Commission to consider these factors in its franchising requirement deliberations.

In addition, as a practical matter, the County notes that a significant period of time may elapse between the date on which an applicant files a request to begin negotiations and the date an applicant actually makes itself available to participate in negotiations. A fourth cable operator recently notified the County that it was making itself available to participate in negotiations. Within seven business days, Fairfax County responded by providing potential meeting dates for the following week. But due to the applicant's limited staff resources and scheduling conflicts, the applicant held its initial negotiation meeting with the County some sixty days after the date its initial notice was received by the County.

Furthermore, the Virginia statute continues: "Thereafter [following the 45 days in which the applicant has made itself available to participate in negotiations], an applicant ... shall file notice ... that it elects to receive an ordinance cable franchise at least 30 days prior to offering

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[69] Va. Code Ann. § 15.2-2108.21(C) (2006).

[70] County's Franchising NPRM Comments at 5-6.

cable in such locality."[71] Although the County is aware of a provider filing two such elections in other jurisdictions, in both instances the provider opted to continue with the negotiation process.[72] It is still too early to measure the full impact of the new state legislation, but it appears that Verizon has continued to negotiate franchise agreements rather than to demand ordinance cable franchises under the new state law.[73]

Finally, in response to the Commission's inquiry, "Are state or local regulatory issues the initial determinate in whether LECs choose to enter a market or not?,"[74] the Board notes that the available evidence seems to suggest that restrictions on local franchising authority have not

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[71] Va. Code Ann. § 15.2-2108.21(C) (2006).

[72] Verizon now has a total of fourteen negotiated cable franchises in Virginia. Press Release, Verizon Communications Inc., "*Consumer Choice for Cable Service Leaps Forward in Washington Metropolitan Area – Verizon Obtains Franchises in Arlington and Loudoun Counties; Region's Franchises Now Total 13, Covering 2.4 Million Potential Viewers*," Jun. 21, 2006, *available at* http://newscenter.verizon.com/press-releases/verizon/2006/page.jsp?itemID=29670050; and Press Release, Verizon Communications Inc., *Leesburg, Virginia, Consumers Major Step Closer to Real Choice for Cable TV – Verizon Obtains 13th Washington Metro Area Cable Franchise; Expects to Quickly Offer FiOS TV to Leesburg Residents*, Jun. 28, 2006, *available at* http://newscenter.verizon.com/press-releases/verizon/2006/page.jsp?itemID=29669918. Press Release, Verizon Communications Inc., *Consumers in Spotsylvania County, Virginia, Major Step Closer to Real Choice for Cable TV –Verizon Obtains 14th Virginia Cable Franchise; Expects to Begin Offering FiOS TV to County Residents in Next Few Weeks*, Oct. 25, 2006, *available at* http://newscenter.verizon.com/press-releases/verizon/2006/consumers-in-spotsylvania.html.

[73] Since the new state law took effect, Verizon reported that it negotiated two additional Virginia cable franchises in the Town of Vienna and Spotsylvania County. Press Release, Verizon Communications Inc., "*Vienna, Virginia, Consumers Major Step Closer to Real Choice for Cable TV – Company Obtains Cable Franchise; Will Begin All-Fiber Network Upgrade, Offering FiOS Internet, TV Service to Most of Town Over Next Year*," Sept. 12, 2006, *available at* http://newscenter.verizon.com/press-releases/verizon/2006/vienna-virginia-consumers.html; Press Release, Verizon Communications Inc., *Consumers in Spotsylvania County, Virginia, Major Step Closer to Real Choice for Cable TV –Verizon Obtains 14th Virginia Cable Franchise; Expects to Begin Offering FiOS TV to County Residents in Next Few Weeks*, Oct. 25, 2006, *available at* http://newscenter.verizon.com/press-releases/verizon/2006/consumers-in-spotsylvania.html.

[74] *Notice* at ¶ 49.

resulted in a significant or even marked increase in competitive deployment.[75] Perhaps the more salient issue the Commission should consider is: To what extent does the date a provider's system will be able to offer service drive the provider's decision to engage in the regulatory process? As the County previously reported to the Commission, because Verizon opted to focus its efforts on lobbying for state legislation, eight months elapsed between August 2004, when Verizon VA first expressed to the County an interest in negotiating a franchise, and April 2005, when Verizon VA's first negotiation meeting with the County was held. One week after this first negotiation, Verizon informed the County that its system could be capable of delivering video service by October or November 2006. The County and Verizon VA reviewed the Board's meeting schedule, local public hearing requirements, and State law requirements for public notice, and then established a negotiating schedule that would allow Verizon VA to offer service on October 1, 2006. The parties were able to negotiate all major terms and conditions in approximately seven weeks, and in less than three months, completed negotiation of a proposed franchise agreement for the Board's consideration.[76] Again, the County emphasizes that the provider's decision to devote sufficient staff resources, and its willingness to engage in meaningful negotiations, were essential components of the negotiation process.[77] Thus, the Commission should consider carefully the motivation and incentives for providers to fully engage in the negotiation process as part of any inquiry into the impact of the local franchise process on entry into local markets.[78]

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[75] *See* NCTA Comments at 17. In Texas, where Verizon and AT&T have both been granted statewide franchises, Verizon serves fewer than 5% of total homes in the state and AT&T serves fewer than half of one percent.

[76] Fairfax County Franchising NPRM Comments at 5-6.

[77] *Id.*

[78] *See Notice* at ¶ 12.

V. LOCALLY ORIGINATED AND FOREIGN LANGUAGE PROGRAMMING

Consistent with authority granted by Congress, Fairfax County has negotiated channel capacity and capital grant support for public, educational, and governmental access ("PEG") channels and institutional network use in initial and renewal franchises.[79] The franchise agreements between Fairfax County and cable operators Cox VA, Comcast VA and Verizon VA require each cable operator to set aside up to eighteen channels on its cable system for PEG use. Currently, each cable operator provides four public access channels,[80] three educational channels programmed by the Fairfax County Public School system, two higher education educational access channels programmed by George Mason University and Northern Virginia Community College, and two channels for governmental use programmed by the Fairfax County government.[81] The remainder of the set aside may be activated by the Board based on future community needs.[82] On all cable systems in Fairfax County, the Fairfax County PEG channels are the largest source of locally originated programming and a significant source of foreign language programming both produced locally and originally in a language other than English. Moreover, under terms of the franchise agreements negotiated by the County, almost all of this

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[79] 47 U.S.C. §§ 531(b) and 531(c); *see also* 47 U.S.C. § 542(g)(2)(C).

[80] Verizon and Comcast are currently negotiating to permit Verizon VA to carry Channel 28 Reston Community TV. While other public access channels in Fairfax County are independently-run non-profit organizations, Reston Community TV is owned and operated by Comcast VA. The Fairfax County Access Corporation ("FCAC") is developing a promotional campaign to facilitate carriage of FCAC's foreign language channel on Comcast VA's Reston Virginia system in 2007.

[81] The FCPS Teacher Channel 11 and Fairfax County's Fairfax County Training Network channel are closed training channels transmitted over the cable systems in scrambled format and may viewed only in County and FCPS facilities using specialized receivers. The County will migrate these training channels to the County's institutional network by June 2007.

[82] Cox Franchise Agreement at Sec. 7(a); Comcast VA Franchise Agreement at Sec. 7(a); and Verizon VA Franchise Agreement Sec. 6.1.

locally originated and foreign language programming is carried on each operators' most affordable and accessible Basic Service Tier.

The Fairfax County Public Schools ("FCPS") educational access channels provide programming devoted to children's programming and to local and community affairs programming as it relates to the Fairfax County public school system. The FCPS instructional programs enhance the educational experience of K-12 students, and the community affairs programming keeps both parents and County taxpayers informed about practices, policies and issues affecting the public school system. FCPS educational access channels provide 52 hours per month of first-run locally originated programming of which 2.5 hours is public information originally produced in Arabic, Farsi, Korean, Spanish, and Vietnamese, and 8 hours of which is provided with real-time closed captioning. FCPS educational channels also provide 13.5 hours per month of first-run locally originated foreign language instruction. All of the FCPS foreign language programming is designed to inform non-English speaking community members and parents about the public school system. This information is also often essential in improving the experience of English as second language students. Overall, FCPS channels each month provide 433 hours of locally originated programming, 89.5 hours of foreign language programming and 447 hours of closed captioned programming.

The Northern Virginia Community College education access channel, NVCC-TV, provides 96 hours per month of first-run locally originated programming, of which 8 hours is provided with real-time closed captioning. Overall, each month NVCC-TV provides 152 hours of locally originated programming, 16 hours of foreign language programming, and 184 hours of closed captioned programming. The George Mason University education access channel, GMU-

TV, provides 36 hours per month of first-run locally originated programming and 82 hours per month of locally originated programming.

Fairfax County Government Channel 16, FCGC-16, each month provides 83 hours of first-run locally originated programming, 21 hours of which is public affairs programming provided with closed captioning in real time. FCGC-16 also provides 13.5 hours per month of locally originated programming produced in Spanish, Korean, and Arabic, and 42.5 hours per month of programming with real-time closed captioning. Overall, each month FCGC-16 provides 350 hours of locally originated programming, 13.5 hours of foreign language programming, and 345 hours of closed captioned programming.

The Reston Community TV Channel 28 public access channel, RCTV-28, each month provides 45 hours of first-run locally originated programming, including community meetings, festivals and sporting events. RCTV-28 provides production and editing training to the general public, and airs locally originated programming produced by members of the general public on a space available, first-come first-served basis. Overall, RCTV-28 each month provides 90 hours of locally originated programming and 2 hours of foreign language programming.

Fairfax Public Access operates three public access channels – FPA Channel 10, providing public access programming, WRLD 30, providing international and world culture programming, and WEBR, cable radio programming. Combined, FPA Channel 10 and WRLD 30 each month provide 84 hours of first-run locally originated programming, of which 45 hours are produced in Korean, Vietnamese, Spanish, Russian, Eritrean, Ethiopian, Farsi, and Arabic. Overall, each month FPA Channel 10 and WRLD 30 provide 252 hours of locally originated programming and 135 hours of foreign language programming. In addition, WEBR each month provides 332

hours of first-run locally originated programming, of which 45 hours are produced in languages other than English.

While each cable system carries national broadcast network affiliates and local public broadcast system stations, these broadcast channels provide primarily non-locally originated nationally syndicated programming and/or regional news programming produced to serve the four million residents of the Washington DC metro area market.[83] Each month, the 1,691 hours of locally-originated Fairfax County programming represents a bulwark of locally-originated programming provided to Fairfax County's million plus residents. In addition, the 301 hours per month of programming produced in languages other than English and the 976 hours of closed captioned programming provided each month of Fairfax County PEG channels represent important avenues of information for the County's diverse population.

VI. TECHNICAL ISSUES

Fairfax County urges the Commission to more aggressively exercise its regulatory authority in regard to resolving issues relating to consumer equipment, navigation devices, CableCARDS, and technical standards. In the ten years since Congress authorized the Consumer Electronics Equipment Compatibility and Competitive Availability of Navigation Devices provisions of the Telecommunications Act of 1996,[84] the Commission has yet to implement regulations to ensure that consumers fully realize the goals of these provisions. That is to say, in the ten years since Congress directed the Commission to address these issues, Fairfax County consumers still do not have the ability to view all cable channels – including premium channels – directly on their television receivers without passing through a converter box, cannot use all

[83] Source: Media Info Center, *available at* http://www.mediainfocenter.org/compare/top50/#radio

features of their televisions – including picture-in-picture – when a converter box is used, and cannot purchase a commercially available converter box to view all programming – including electronic programming guides and video-on-demand services. As noted above, the necessity to rent a converter box represents almost eight percent of the end cost to consumers of analog cable service and seven percent of the end cost to consumers of digital cable service.[85]

A. Emergency Alert System and Emergency Message System Capabilities.

Although not specifically raised as an issue by the Commission in the Notice, Fairfax County requests that the Commission also include in its Report to Congress information regarding emergency alert capabilities of cable systems with regional or national instead of franchise area headends. If a cable operator's headend serves a specific franchise area, a local emergency override can be utilized to provide specific local emergency information, such as tornado warnings, and can direct viewers to turn to local government access channels for additional local emergency information, such as boil water alerts after a hurricane or storm damage to water systems. It is unclear at this time whether cable operators employing super headends to serve large states or multiple states encompassing a large geographic area will have adequate capabilities to provide sufficiently localized emergency information.

B. E-911 and Battery Back-Up Systems For Cable Telephony Phone Service.

Consistent with existing County policy, Fairfax County does not attempt to promote any specific telephone, broadband or Internet technology, but rather attempts to provide consumers with easy to understand information about different technologies so that consumers may make informed decisions about their communication service providers. In 2006, the Fairfax County

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[84] 47 U.S.C. §§ 544a and 549.

Department of Cable Communications and Consumer Protection worked with all three franchised cable operators to produce "Connecting Your Home," an overview of emerging communications technologies and their impact on Fairfax County telephone, cable television, and internet subscribers. "Connecting Your Home" information was cablecast over Fairfax County Government Channel 16,[86] produced as a printed brochure, and posted onto the County's website.[87] Working with the County's cable operators, the County provided the following information regarding E-911 service and battery back up systems to the general public:[88]

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[85] *See* table 5 herein.

[86] This video program is available as video on demand at http://www.fairfaxcounty.gov /cable/channel16/asx/connecting_home.asx.

[87] *Available at* http://www.fairfaxcounty.gov/cable/channel16/connecting/welcome.htm.

[88] *Available at* http://www.fairfaxcounty.gov/cable/channel16/connecting/ph_summary.pdf.

Service Provided / Condition Encountered	Cox Digital Voice	Verizon (POTS) Traditional	Verizon POTS via FTTP	Verizon VoiceWing
VOIP Based?	NO	NO	NO	Yes. Customer must have broadband.
If the power fails in my house is there a backup battery located inside my house that will provide power for me to make a call from a standard phone?* Backup hours available?	Yes, back-up power is supplied for 4 to 8 hours to customers with a battery -- or IVP -- in their home	Not Applicable Powered by Central Office	YES Up to 8 hours	NO
If the power fails in my house, does the provider supply external power for me to make a call from a standard phone?* Hours of backup should provider power also fail (Hrs).	Yes, back-up power is supplied via a generator for customers with external power sources	YES	No, but the battery backup supplies up to 8 hours	NO
If power fails in the home, can 911 be called?*	Yes, while provider power lasts	YES	YES Up to 8 hours	NO
E911 Capability*(emergency operator can locate where I am calling from)	YES	YES	YES	YES
If Internet broadband service is disabled (not power) can 911 be called?	YES	YES	YES	NO
If provider network is congested, can 911 be called?	YES	YES	YES	YES
Is a Fax Machine Compatible with this service?	YES	YES	YES	Contact Verizon
Under what conditions will my Medical Alarm dialer not operate?	Full system failure	Contact Verizon	Contact Verizon	Contact Verizon
Under what conditions will my Home Alarm not operate with this service?	Full system failure	Contact Verizon	Contact Verizon	Contact Verizon

*If your telephone (for example, cordless phone) usually requires additional power from the household electricity supply (power outlet) to operate, you should be aware that if there is a power failure in your home your telephone may not work. It is best to keep a traditional or "standard" telephone handy that can be used during such circumstances that normally only requires to be connected to a telephone jack to operate.

VII. CONCLUSION.

Local franchising has had a positive impact for consumers in Fairfax County. Because of the reasonable build-out requirements negotiated by the County, all households will have access to two wireline competitors providing video and high speed Internet access within the next six years, and cable operators will make such service available to at least eighty-five percent of all County households without line extension charges.

Competition does appear to be impacting bundled service packages, but there is insufficient data to determine whether competition is slowing the growth of cable rates. However, there is no evidence to date in Fairfax County that competition has lowered non-promotional cable rates. Additional data, including an updated *Cable Price Report* from the Commission, is needed to more fully evaluate the impact of competition on cable pricing, and it is too early to determine whether the 2006 Virginia cable franchising legislation is improving deployment or whether deployment continues to be driven by providers' technical abilities and financial resources.

Finally, Fairfax County notes that local public, educational, and governmental access channels are important sources of local, foreign language and closed captioned programming and emergency information. The Commission should consider these important public policy considerations in any related cable franchising proceedings.

Respectfully submitted,

FAIRFAX COUNTY VIRGINIA

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