

EXECUTIVE 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 entirety 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 commentators 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 commentators 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 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.