EXTENSIONS OF REMARKS

CABLE AMENDMENT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 31, 1995

Mr. MARKEY. Mr. Speaker, the Nation's cable monopolies are trying to persuade the Congress to dismantle the rate regulation rules that have saved consumers over $3 billion since 1993.

They are trying to break free from consumer protection rules before competition arrives to offer Americans an affordable marketplace choice.

Cable consumers should be on red alert. What's in store for the American public if Congress goes along?

What is the cable industry offering consumers? Free remotes? Special discounts? Unlimited channels?

No. Although we might wish it were otherwise, without effective competition to give consumers a real choice, the cable industry is going to give us reruns.

Reruns of the hyper-inflationary rate hikes that were the norm before Congress reined in the monopolies.

Reruns of the exorbitant prices charged for equipment.

A rerun of the same horror story for the American consumer.

That's right. If cable consumers have a TV clicker in one hand, they better be holding onto their wallets with the other because the telecommunications bill moving through Congress is going to raise cable rates.

The House bill would lift all rate regulation on cable programming, either immediately on small systems—representing about 30 percent of consumers—or 15 months after the date of enactment for the rest of the country.

And when they're deregulated the cable monopolists will return to past practice and consumers will be forced to relive that past again.

Many cable operators will use their newfound freedom to charge exorbitant rates.

The new 18-inch Direct Broadcast Satellite dishes will not hold them back as long as it's a $700 alternative.

And the telephone companies won't hold back cable rate hikes until they show up and start delivering the goods. And the cold reality is that no telephone company is currently offering cable service on a commercial basis in competition with a cable company.

In fact, a recent front page story in the Wall Street Journal made it clear that the phone companies aren't coming soon. The article stated that the Bell companies are unlikely to reach 25 percent of the country with a competing video service until well after the year 2000. The chairman of one of the Bell company's multimedia group stated that simply aiming at the 25 percent mark in the next 7 years would be ''very optimistic.''

The hooplah many of us heard as recently as a few months ago about a video world with over 500 channels being offered to millions of consumers by the end of the year is pure fantasy. The high tech hype has confronted engineering reality. The phone companies are still figuring out how to make the technology work.

To pretend, as H.R. 1555 does, that 15 months from now, this world will have suddenly changed to one of widespread delivery of commercially competitive cable service from a telephone company, is sheer folly.

As in any industry, the cable world has its share of bad actors. They will see their unregulated monopoly opportunities, and they will take them.

The blindly deregulatory provisions in the pending telecommunications bills will take us back to the recent past where from 1986 to 1989 the U.S. General Accounting Office found that, on average, the price of basic cable services rose more than 40 percent—3 times the rate of inflation over that time.

As most of you know, things got so bad that in 1992 Congress had to act. The current law already stipulates that when a cable company faces effective competition the cable company's rates are deregulated.

I believe we should stick with a competition-based telecommunications policy. Competition offers consumers choice. Competition will bring lower prices. Competition will drive infrastructure development and innovation.

The Markey-Shays amendment will correct many of the anticonsumer, anticompetitive cable provisions of H.R. 1555.

The Markey-Shays amendment will allow cable operators flexibility in the rates they charge for cable programming services, but will restrain operators from engaging in rate gouging. The Markey-Shays amendment says that until a cable operator faces effective competition in the marketplace, that operator must charge reasonable rates.

Rates will be deemed unreasonable if they exceed, on a per channel basis, the percentage annual increase in the Consumer Price Index.

Again, these limitations on how high cable rates can go are temporary provisions. The Cable Act of 1992 already has put provisions in the law that state that when a competitor reaches 50 percent of the homes in a franchise area and 15 percent take that alternative, the incumbent cable operator's rates are deregulated.

H.R. 1555 also modifies the complaint threshold that must be met to review cable rates charged to ascertain whether they exceed legal limitations. The legislation requires that 10 consumers or 5 percent of all subscribers of a cable system, whichever is greater, must complain to the FCC to induce a rate proceeding. In other words, H.R. 1555 would require that in a cable system of 200,000 subscribers, that 10,000 consumers would have to complain.

This is absurd. Moving the complaint level to 5 percent of subscribers is a clear attempt to create an impossibly high threshold in order to insulate cable companies from provisions originally designed in the Cable Act of 1992 for consumer protection and empowerment.

Another anticompetitive provision in the bill is the repeal of prohibitions on predatory pricing.

Not only does H.R. 1555 prematurely deregulate cable monopolies, it contains provisions that would snuff out fledging competitors before they can take wing in a community. It would allow cable monopolies to target unfairly a new competitor's customers for temporary lower prices and special offers. These lower prices and special offers to undercut a competitor would not be available to all subscribers in the cable systems' franchise areas. Rather, other subscribers would subsidize lower rates to undercut competitors. In this way, cable monopolies can crush competition in its cradle.

Nascent competitors, such as wireless cable systems and direct broadcast satellite [DBS] systems, would suffer greatly from this anticompetitive provision. H.R. 1555 would significantly thwart the ability of consumers to reap the benefits of competition in the form of greater choice, higher quality, and lower price, if section 202(g) is retained in the bill.

Not content simply to deregulate monopolies before competition arrives, H.R. 1555 frustrates, rather than promotes, the emergence of a competitive market. The current cable provisions constitute a glaring flaw in a bill whose ostensible purpose is to promote competition in the telecommunications marketplace.

The Markey-Shays amendment will retain the uniform pricing rules on cable operators.

Finally, the Markey-Shays amendment will scale back the sweeping definition of small cable system contained in the bill.

As I have mentioned before, the bill deregulates rates for cable programming services for so-called ''small cable systems'' immediately upon enactment. These are systems which largely serve rural America.

As a result, it will be consumers in rural America who see their cable rates rise first. H.R. 1555 deregulates any cable system which has less than 1 percent of all cable subscribers (approximately 600,000 subscribers) and is not affiliated with an entity that earns in excess of $250 million in gross annual revenues.

According to the FCC, this provision would deregulate cable systems affecting 28.8 percent of all cable subscribers.

The Markey-Shays amendment would define small cable systems as those that directly serve fewer than 10,000 cable subscribers in its franchise area and have in aggregate less than 250,000 subscribers.

I believe that the cable provision of H.R. 1555 go far astray of a competition-based telecommunications policy. They are opposed by the administration. They are opposed by consumer groups. They should be amended to protect consumers until competition arrives to offer an affordable marketplace choice.

MARKEY BROADCAST AMENDMENT

The drastic and indiscriminate elimination of mass media ownership rules proposed by this bill would eviscerate the public interest principles of diversity and localism. Instead, H.R.

1555 will concentrate great wealth and media power in the hands of a few. It allows for the concentration of television, radio, cable and newspaper properties in a way that will make Citizen Kane look like an underachiever.

The mass media provisions of H.R. 1555, which were adopted in the form of an amendment offered by Mr. Stearns (R-FL), are sweeping in scope. The network duopoly rule is repealed. The broadcast-cable crossownership rule is repealed. The network-cable crossownership rule is repealed. The broadcast rule is repealed. The broadcast-newspaper crossownership rule is repealed. National limits on radio station ownership are repealed. Limits on local ownership of radio stations are also eliminated. The one-to-a-market rule is repealed, allowing for the creation of television duopolies in local markets. Finally, the national audience reach limitation for television networks is allowed to double from 25 percent of the country to 50 percent.

The aggregate effect of these changes are to move telecommunications policy back to the 1930's. They will encourage the rapid consolidation of mass media ownership in this country and the elimination of diverse sources of opinion and expression. They are a powerful toxin to democracy and a death knell for community control of its own media.

H.R. 1555 will ensure that mass media outlets increasingly became beholden to policies and programming originating in New York and Hollywood.

The bill encourages the hoarding of media power to truly nightmarish proportions; in a particular town one large company could control 2 TV stations, an unlimited number of radio stations, the only newspaper in town, the town's only cable system, and in small towns the local phone company. Such control over the local media marketplace would give the owner a huge advantage in dictating the terms for advertising. More importantly, it also furnishes this local media potentate with dramatic power to influence coverage and public opinion on hundreds of issues of concern to the citizens of that local community.

The bill repeals local media cross-ownership rules between television stations, cable systems and newspapers, allows for unlimited AM and FM radio ownership on both the national and local levels, allows the national television networks to consolidate and to double their audience reach, and permits people to own 2 television stations within a community. Rather than promoting a forward-looking media policy for a 21st century economy, these provisions return us to the 1930's-era when there were very few media owners in most communities.

The current rules, which have successfully created a level of media diversity in this country that is the envy of the world, were not the sole creation of liberals. They were implemented on a bipartisan basis by both liberals and conservatives, Democrats and Republicans, to mitigate against media concentration and to promote competition and diversity.

Such media concentration was not a theoretical possibility. During the 1930's, NBC had a Red and a Blue television network. In 1941, the FDR administration barred dual network ownership and required NBC to divest itself of its Blue network. That network became the American Broadcasting Co. After waiting decades for the emergence of a fourth competing network (FOX), the House bill would allow FOX to buy CBS and permit NBC and ABC to merge back together again after a 50-year hiatus. This ill-advised proposal will lead to less choice, less diversity, less competition.

On the local level, powerful conglomerates in the 1960's and 1970's were amassing multiple ownership of media outlets. At the time, in the top 50 television markets (comprising 75 percent of the Nation's television homes), 30 markets had one of the local TV stations owned by a major newspaper in the same market. By 1967, some 76 communities had only one AM radio station and only one daily newspaper, with cross-ownership interests between the two. Fourteen communities had one AM radio station, one television station, and only one daily newspaper, all commonly owned. Moreover, in 1968 it was reported that the infant cable industry was already seeing a trend toward media concentration, with 30 percent of cable systems controlled by broadcasters.

Across the country, media moguls were assembling what was called a Royal Flush: one person or company would own a local television station, an FM station, an AM station, the daily newspaper and the cable system.

And who stepped in to implement rules to prevent the unhealthy accumulation of media power? Why, it was the Nixon and Ford Administrations that found the trend so disturbing they decided to take action. The Republican-led FCC in that era, reflecting main street, small town sensibility on media concentration issues, adopted restrictions on mass media ownership to further the twin goals of diversity and competition.

Now who is threatened by the communications cannibalism in media properties that would be unleashed by the current House proposal? Local television affiliates and independent TV stations, small radio stations with innovative but niche programming formats, family-run newspapers struggling to remain independent are endangered species in a new digital Darwinism where only the communications colossi can survive.

Every local town and hamlet runs the risk of becoming real life Pottersville, the mythical town that Jimmy Stewart prevented from existing in the 1946 classic ''It's a Wonderful Life.''

The House bill would allow for the aggregation of mass media power that far exceeds the Royal Flush in local markets. Such a historic public policy reversal poses grave repercussions for democratic government. Since the time of Jefferson, access to a diversity of information and opinions on the important issues of the day was considered essential to the workings of democracy.

In an era when we are searching for ways to break down monopolies and provide consumers with greater choice, the telecommunications bill returns us to a bygone era and resurrects the possibility that the emerging multimedia milieu will be dominated by a few communications cartels.

My amendment addresses two key issues in the bill.

REPEAL OF THE BROADCAST-CABLE CROSSOWNERSHIP RULE

This rule prevents TV-cable combinations within local markets. Adopted by the FCC during the Nixon administration, this rule helps to protect fair competition in the local media marketplace and safeguards diversity in mass media outlets within local communities. Simply put, this rule prevents a cable system from acquiring a local TV station in the same city.

Television broadcasters today rely upon so-called must carry rules to ensure their carriage on local cable systems. These rules are currently subject to litigation in the courts.

If the court invalidates these rules, the broadcast-cable crossownership repeal contained in H.R. 1555 could have adverse consequences. For example, if a cable company has a financial interest in one of the TV stations within the local market (or 2 TV stations if it is one of the new local duopolies permitted by H.R. 1555), some or all of the remaining broadcasters may be refused carriage or discriminated against in such carriage. Without safeguards, repeal of this rule would allow a local cable system-local television combination to utilize the bottleneck of cable system access to stifle media voices and distort the advertising market.

Yet even without any judicial decision with respect to the status of must carry obligations, repeal of this rule will have anticompetitive consequences. H.R. 1555 does not extend must carry rights to any new channels offered by broadcasters. In developing new section 336 of the Communication Act of 1934, the authors of H.R. 1555 stipulate that if the Commission decides to award additional licenses for advanced television services, the supplementary services or channels that a broadcaster may develop utilizing digital compression are not granted must carry rights on cable systems.

Although numerous broadcasters in a locality might be using digital compression technology to create 3, 4, or 5 additional TV channels each, the cable system is not obligated to carry these additional channels. This is a competitively neutral provision only if all the local television stations are treated by the cable system in similar fashion.

With repeal of the broadcast-cable crossownership rule, however, the local cable system could immediately favor the television station in which it had a financial interest. The cable system could do this simply by carrying the additional or supplementary channels and services of that TV station and denying such opportunity to the other broadcasters within the same community.

DEREGULATION OF THE NATIONAL TV AUDIENCE REACH LIMITATION

The bill would lift the current cap limiting television networks to 25-percent coverage of the Nation to 35 percent immediately. It would then be lift the cap to 50 percent 1 year later.

I believe that the relationship between networks and television affiliates has served our country well. H.R. 1555 does more than tip the balance between TV networks and their affiliates toward the networks. It completely disrupts that balance.

Local broadcasters in communities across the country are fighting to remain local broadcasters in this legislation. Increasing the national audience caps to 50 percent puts localism in jeopardy. The doubling of the audience cap will hurt diversity.

The nature of the network-affiliate relationship today is that networks must count on their affiliates to air national programming while affiliates count on the networks to provide national news, sports and entertainment to add to a mix of local news and independently-produced programming. tilting the balance too much toward the networks will create a concentration of nationally-produced programming and a corresponding loss of locally-oriented programming.

If networks can own stations that cover the largest markets in the country, we lose the tradition—and the capability—of having local affiliates pre-empt network programming to bring viewers important local news, public interest programming, and local sports. As Ed Reilly, president of McGraw Hill Broadcasting Co. said in testimony before the Committee: A network-owned station almost never pre-empts a network program to cover a local sports event or to air a local charity telethon.

Because American society is built upon local community expression, the policy favoring localism is fundamental to the licensing of broadcast stations. Localism permits broadcasters to tailor their programming to the needs and interests of their communities. Moreover, as trends toward national homogenization of the media grow—for example, cable channels and direct broadcast satellite service—localism increases in importance. Expansion of national media outlets increases the need for local media outlets with the locally ubiquitous reach of broadcast television stations.

In short, relaxation of the national audience caps is an anti-competitive proposal. Deregulation of the audience cap will intensify concentration in the hands of the vertically-integrated, national television networks. Once they are permitted to gobble up additional local stations, these mega-networks will have an increased ability to sell national advertising by controlling local distribution.

No one will argue that, in general, it is not more efficient to simply make local broadcast stations passive conduits for network transmissions from New York. Localism is an expensive value. We believe it is a vitally important value, however, and like universal service, it is a principle of communications policy rooted in the Communications Act of 1934. It should be preserved and enhanced as we reform our laws for the next century.

TRIBUTE TO AMERICA'S KOREAN WAR VETERANS

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1995

Mr. FRELINGHUYSEN. Mr. Speaker, today, I rise to pay tribute to our Nation's Korean war veterans. Last week, the Korean War Veterans Memorial was dedicated to their honor—and it's about time. These men and women have waited too long to be recognized for their sacrifices. They fought, and many died, for ''a country they never knew and a people they never met,'' as reads an inscription on one of the memorial's sculptures.

The Korean War Veterans Memorial is a somber yet powerful monument to those who served in what is often referred to as ''the forgotten war'' of the 20th century. Many heroes of the Korean war have spent the last 40 years lost in the shadows of the triumphant victory in World War II and the national divisiveness sparked by the war in Vietnam. Yet, the Korean war was critical because it was the first test of the post-World War II order; our Nation's commitment to defend liberty and to arrest the growing threat of tyranny were being directly challenged.

Carved in stone on the memorial are the words, ''Freedom is Not Free''—a truism confirmed by painful numbers. Over 5 million Americans were mobilized for the Korean war—103,000 were wounded in battle, 52,000 gave their lives and 8,000 prisoners of war are still unaccounted for. There are still over 140,000 Korean war veterans in New Jersey, 12,400 of them in the 11th Congressional District.

Today, as I speak, thousands of American troops work together with South Korean forces to maintain the fragile peace that their grandparents fought and died for along the 38th parallel. For 42 years now, they have stood watch. Ever vigilant, ever brave, they continue to guard what has become a thriving democracy and a vibrant culture. So, while a threat still looms from the north, our Nation's commitment to defend the principles of liberty remain steadfast.

The legacy of the soldiers who fought in the frozen hills of the Korean Peninsula is evident today in the stark contrast of a nation's people still divided. The morning before the memorial was dedicated, South Korea's President, Kim Yong-sam, addressed a joint session of the United States Congress as the leader of a free and democratic nation while Kim Il Jung of North Korea still shrouds his people in the cloak of communism.

The Korean War Veterans Memorial serves as a reminder to the United States, South Korea, and the rest of the world that freedom has a price and we ought never to forget those who paid it.

THE HAMPTON CLASSIC

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1995

Mr. FORBES. Mr. Speaker, I rise today to proclaim August to be Hampton Classic Month. On August 27, I will join with tens of thousands of admirers in Bridgehampton, Long Island, NY, in celebration of the 20th anniversary of the Hampton Classic. In addition to being one of the Nation's most superb horseshows, it is also an outstanding fundraising event. Thanks to the classic's program of charitable giving, the public's support of this wonderful event also makes possible a generosity that otherwise might not be available.

Since the inaugural show in 1976, Southampton Hospital has received more than $500,000 thanks to patrons of the Hampton Classic. In addition, Mr. Speaker, the classic produces significant annual revenues for the Nassau-Suffolk Chapter of Juvenile Diabetes Foundation and the U.S. Equestrian Team, sponsors of our Olympic and other international riding teams.

Mr. Speaker, I join with all our neighbors, friends, and visitors to the east end in extending heartiest congratulations and sincere thanks to everyone in the Hampton Classic family whose selfless devotion to this tremendous undertaking have made it a success. The Hampton Classic is a truly extraordinary event and, on behalf of a grateful community, I extend my sincere appreciation to all who support it.

HONORING DR. CARL E. WHIPPLE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1995

Mr. CLINGER. Mr. Speaker, I rise today to honor Dr. Carl E. Whipple for a quarter century of service to the Housing Authority of Warren County, PA.

A native Pennsylvanian, Dr. Whipple dedicated himself to educating and encouraging others to achieve their goals. He began his career as a teacher, subsequently earning masters and doctoral degrees in education. Following a naval tour aboard the aircraft carrier U.S.S. *Ranger*, Dr. Whipple continued his devotion to education during a year mission to India.

Many regions across Pennsylvania also benefited from Dr. Whipple's lifelong commitment to community service. As a teacher, principal and superintendent of several schools, Dr. Whipple actively pursued improvement of the public school system.

In addition to his career as an educator, Dr. Whipple will long be remembered for the realization of one of his dreams. Following retirement from Warren County Schools, Dr. Whipple while traveling on a family visit to California, viewed for the first time a public housing complex for senior citizens. Upon return to Pennsylvania, Dr. Whipple led the charge to establish a similar program in Warren County. Not only did Dr. Whipple play an instrumental role designing the housing authority, he also served as chairman of the board of directors for 25 years.

From his first job as a high school teacher, and throughout his participation in the Pennsylvania Retired Public School Employees Association, the Rotary Club, and the Northern Allegheny Conservation Association, Dr. Whipple continuously demonstrated the depth of his commitment to mankind.

I am proud to recognize Dr. Carl E. Whipple for his outstanding accomplishments and extraordinary dedication to public service in Warren County and throughout the world. We, in northwest Pennsylvania, are fortunate to have such an individual who serves as a shining example of what community service is all about.

A SALUTE TO JAZMIN BROOKS

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1995

Mrs. MINK of Hawaii. Mr. Speaker, I would like to take this opportunity to salute an outstanding young women from my congressional district, Ms. Jazmin Brooks. Jazmin was recently named a national winner of the ''Voice of Democracy'' broadcast scriptwriting contest which is sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. The competition requires high school students to write an essay on a specified patriotic theme. In 1995, over 126,000 students participated. Jazmin was sponsored by VFW Post 2875, VFW Post 94, Ship's Post 2432 and its Ladies Auxiliary. All are located in Honolulu HI. This year's theme was entitled, ''My Vision for America'' and I am pleased to share Jazmin's award winning entry with you.