



Consumer Federation of America

April 26, 2007

United States Senate
Washington, D.C. 20510

Dear Senator:

It's time to give consumers a meaningful tool to avoid receiving or underwriting the cost of programming they may find objectionable or which, as a new Federal Communications Commission report found, may even be harmful. An article from today's *New York Times* summarizing the FCC's findings is attached.

We endorse and applaud the FCC's recommendation that Congress enact legislation that ensures cable companies give consumers greater choice over what programming they pay for and urge your support for channel choice as a market-driven, non-intrusive solution to growing concerns about inappropriate content on cable television.

Giving consumers the option of buying cable programming on a channel-by-channel basis or in smaller packages gives consumers greater control over what programming comes into their home and over the cost of their cable service by allowing them to pay for only those channels they want; prevents consumers from subsidizing programming they don't want or find objectionable; and promotes greater diversity in cable programming. By breaking the gatekeeping power of cable companies, channel choice opens the path for new producers of independent content that meets the needs of our diverse nation.

Cable companies currently offer channels in only large, costly bundles, known as the extended basic package. Consumers are not allowed to select programming on a channel-by-channel basis despite 2006 AP survey data that demonstrate **more than three-quarters of consumers want the ability to tailor their own packages** and recent Nielsen Media Research findings that **consumers watch, on average, fewer than 16 channels of the more than 100 offered**. The size of the bundle has contributed to skyrocketing cable prices, which have increased by 70 percent, nearly two and half times the rate of inflation, since Congress deregulated cable prices in 1996.

Channel choice allows consumers, not Congress, the FCC or cable companies, to decide which programming is right for their families. There is no one-size-fits-all approach to what channels or programs are appropriate; tastes, preferences and beliefs differ widely from house-to-house, block-to-block and town-to-town. In addition, channel choice corrects for the inadequacies and unfairness of existing blocking tools. Consumers should neither have to take extraordinary steps to block programming they don't watch and don't want to receive, nor pay for channels they find offensive or otherwise inappropriate. Moreover, giving consumers the ability to pick and pay for only those channels they actually want to watch provides them with greater control over the costs of their bloated cable service.

Channel choice is preferable to other regulatory approaches suggested by the Commission, such as time-channeling, which face greater constitutional hurdles, require more government intervention and do less to empower consumers. Consumers are the best arbiters of what content is appropriate for their families.

And channel choice has the added advantage of promoting more speech, not less, by limiting the gatekeeping power of the cable company in deciding what channels are made available to consumers. Right now, consumers have no ability to signal to the marketplace what type of programming they want; they are offered an all-or-nothing bundle of channels, many of which are owned by a handful of the largest media conglomerates and which often comprise merely repackaged or repurposed programming already offered on other channels. The result is a homogenized suite of channels that consumers don't want and don't watch.

In addition, cable companies act as gatekeepers over the programming allowed into the expanded basic package, preventing independent content producers from reaching viewers. By allowing consumers to vote with their wallets rather than forcing them to buy channels they never watch, the marketplace will respond by providing more diverse and higher quality programming that consumers demand.

We urge your support for cable channel choice.

Respectfully,

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Commissioner Deborah Taylor Tate
Commissioner Jonathan S. Adelstein
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The New York Times

April 26, 2007

F.C.C. Moves to Restrict TV Violence

By STEPHEN LABATON

WASHINGTON, April 25 — Concerned about an increase in violence on television, the Federal Communications Commission on Wednesday urged lawmakers to consider regulations that would restrict violent programs to late evening, when most children would not be watching.

The commission, in a long-awaited report, concluded that the program ratings system and technology intended to help parents block offensive programs — like the V-chip — had failed to protect children from being regularly exposed to violence.

As a result, the commission recommended that Congress move to limit violence on entertainment programs by giving the agency the authority to define such content and restrict it to late evening television.

It also suggested that Congress adopt legislation that would give consumers the option to buy cable channels “à la carte” — individually or in smaller bundles — so that they would be able to reject channels they did not want.

“Clearly, steps should be taken to protect children from excessively violent programming,” said Kevin J. Martin, the agency’s chairman and a longtime proponent of à la carte programming. “Some might say such action is long overdue. Parents need more tools to protect children from excessively violent programming.”

The commission report, which was requested by Congress three years ago, was sharply criticized by civil liberties advocates and by the cable television industry for proposing steps that both said would be too intrusive.

“These F.C.C. recommendations are political pandering,” said Caroline Fredrickson, director of the Washington legislative office of the American Civil Liberties Union. “The government should not replace parents as decision makers in America’s living rooms. There are some things that the government does well. But deciding what is aired and when on television is not one of them.”

She added: “Government should not parent the parents.”

A spokesman at the National Cable and Telecommunications Association, Brian Dietz, said consumers “are the best judge of which content is appropriate for their household.”

“Simple-sounding solutions, such as à la carte regulation of cable TV packages, are misguided and would endanger cable’s high-quality family-friendly programming, leaving parents and children with fewer viewing options,” he said.

Executives at the major networks said that they wanted to study the report, which was released Wednesday evening, before commenting.

A spokesman for the National Association of Broadcasters, Dennis Wharton, said that broadcast television was “far more tame than programming found on pay TV in terms of both sex and violence.”

Noting that the association, along with all the networks and major cable groups, is in the middle of a \$300 million marketing effort to help educate parents about the V-chip and other technology to block programs, Mr. Wharton said, “Should this not be given a chance to work?”

The report and accompanying recommendations set the stage for a political battle between the commission and three powerful interest groups — the broadcasters, the cable TV industry and satellite television.

It comes on the heels of efforts by the agency to penalize radio and television stations for violating the indecency rule. Those penalties have been challenged in courts on the grounds that they violate the First Amendment.

The outcome of the cases, which could wind up in the United States Supreme Court, could determine whether the government would have the authority to impose limits on violent programs.

The report said that research on whether violent programming had caused children to act more aggressively was inconclusive. But it also cited studies, including one by the surgeon general, that say exposure to violent content has been associated with increased aggression or violent behavior in children, at least in the short term.

It said that the V-chip and other blocking technology had failed because, according to recent studies, nearly 9 out of 10 parents do not use them. And the ratings system was of limited use, the study found, because less than half of parents surveyed had used it.

In addition, many also believed the ratings were inaccurate. Mr. Martin and other supporters of à la carte programming say that it would be easier to put in place than content-based regulations because it would not face the same First Amendment challenges.

“There is no First Amendment right to get paid for your channels,” Mr. Martin said. “All of the versions of à la carte would keep government out of regulating content directly while enabling consumers, including parents, to receive the programming they want and believe to be appropriate for their families.”

The groups supporting such an approach range from Consumers Union to the Parents Television Council, an organization that has lobbied for more stringent penalties for obscene and violent programs.

But such a proposal faces formidable obstacles in Congress because of the influence of the industries involved. The cable industry has fought hard against new regulations and has said that attempts to force à la carte programs would prompt the closing of many educational and local stations.

The broadcasters say that it would be difficult to formulate a definition of “violence” and that tougher regulations could wind up censoring otherwise legitimate programs.

But Mr. Martin rejected that argument, noting that the industry has already formulated ratings to describe the level of violence in programs, and therefore government-imposed limits on when programs could run would be constitutional.

A leading sponsor of efforts to force cable companies to offer à la carte services has been Senator John McCain, Republican of Arizona. But he is spending less time in Congress these days as he begins his campaign for president.