

Statement of
The Honorable Orrin Hatch.

United States Senator
Utah
February 11, 2004

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JUDICIARY STATEMENT: "CABLE COMPETITION - INCREASING PRICE; INCREASING VALUE?"

Statement of Senator Orrin G. Hatch
before the United States Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights

Hearing on
"Cable Competition - Increasing Price; Increasing Value?"

First, I would like to thank Senator DeWine and Senator Kohl for the work that they do as the Chairman and Ranking Democratic Member of this subcommittee, and I commend them for holding this important hearing.

As its title suggests, today's hearing will focus in part on whether the strongly increasing cable prices paid by consumers across the nation actually reflect an increased value in cable television services. I would like to turn that around and, before I address the issue of price, comment briefly on the value, or more accurately, the values reflected in television programming today. I am sincerely troubled by some of the programming that is being aired on both broadcast and cable television. Beyond Janet Jackson and Justin Timberlake's deeply inappropriate display during the Super Bowl halftime show, I feel that certain recent programming has tended to reflect the least admirable qualities present in our nation, and sometimes crosses the line into denigrating the values that I and many of my constituents in Utah, as well as millions of Americans, hold dear.

Some of you may question what this has to do with cable competition and the antitrust laws. A partial answer may be that the enormous consolidation that has occurred in the cable and media markets, as well as the substantial vertical integration between these markets, appears to have resulted in increasing harmonization of programming across the country. I am sure that some of

these concerns will receive attention in connection with Comcast's \$66 billion bid to acquire Disney that was announced this morning. These issues also arose recently when many here in the Senate decried the loss of localism in media markets during the debate over media ownership rules. Now, it is not my intent to rekindle the media ownership debate or to pre-judge the proposed Comcast acquisition, but I would say that many of my constituents feel that the programming they and their families view these days on television seems to be targeted at an audience that has a distinctly higher tolerance for profanity and sexually-suggestive behavior than most of us. And although the most recent controversy involves broadcast television, some of the most offensive and indecent material comes from such large cable stations as FX and MTV. So, I would like to take this opportunity to encourage all media operators, broadcast and cable, to clean up their content.

Having voiced these concerns, I want to emphasize that I do not mean to necessarily equate big with bad. I believe that much of the recent consolidation in media and entertainment markets has the potential to benefit consumers in the long run. However, as I have frequently stated, it is essential that consumer choice be preserved. In this case, that should include the ability to choose not to be exposed to objectionable material.

Turning to the narrower issue of competition in the market for subscription television, I am pleased to note that recent reports by the Federal Communications Commission and the General Accounting Office indicate that the greater competition between cable television and Direct Broadcast Satellite (or DBS) services that has emerged in the last several years has, on the whole, resulted in increased access and improved service for consumers. It is less clear, at least to me, whether current levels of competition adequately discipline price increases. Over the past ten years, inflation - as measured by the Consumer Price Index - has gone up about 25 percent, while by some measures cable prices have increased more than 50 percent during the same time period. While this disproportionate increase in cable prices is partially explained by increases in programming costs - and, in particular, the skyrocketing price of some sports content - I am concerned that higher costs may begin to significantly limit the ability of consumers to afford subscription television service. Interestingly, the recent GAO study indicates that facilities-based competitors - often referred to as overbuilders - may be successful in providing price competition in markets where they compete with incumbent cable service providers. I think this is something that deserves our ongoing attention, and I commend Senators DeWine and Kohl for their work on this issue.

I look forward to hearing more from the panel of witnesses today about emerging issues arising as a result of quickly-evolving technology and changing competitive landscape in the communications sector. In particular, I hope that the witnesses will address the increased competitive significance of bundled service offerings that combine subscription television, local telephone, and high-speed Internet services into a single package. Also, I hope that we will touch on the advent of Voice-over-Internet-Protocol technology and how it is expected to be deployed to provide local telephone service.

Finally, I thank all of the witnesses for being here today, and again commend Senators DeWine and Kohl for holding a hearing on these important issues.

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