Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
February 11, 2004

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Hearing Before the Subcommittee on Antitrust, Business Rights, and Competition:
"Cable Competition - Increasing Price; Increasing Value?"
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I want to thank both Senators DeWine and Kohl for holding this hearing today on an issue that is so important to the people of Vermont and indeed to consumers across the country. The timing of this hearing is also particularly appropriate. Three reports recently released by the Federal Communications Commission and the General Accounting Office reveal what we all intuitively know to be true - greater competition among cable and satellite providers results in better prices, more options, and improved service for consumers.

When Congress passed the Telecommunications Act of 1996, I was one of five Senators to vote against the bill. I expressed reservations at the time that the competition predicted by many would fail to materialize. My concerns were not ill-founded. The October 2003, GAO report notes that cable rates in this country have far outstripped the rate of inflation. In the last 10 years, the Consumer Price Index has risen by approximately 25.5 percent, while cable rates have gone up 53.1 percent. From my home state of Vermont, I have heard complaints from a number of constituents, rightly upset at substantial increases in their cable subscription fees. And, as is the case in all but 2 percent of the television markets across the U.S., there is no wire-based competitor available to Vermonters wishing to change services.

I know that we will hear testimony today attributing the increase in subscription costs largely to the increases in programming costs incurred by content providers. But, at least in markets where there is only one wire-based cable provider, why do we not see downward market pressure on content providers acting to keep programming prices low? And if there is no meaningful downward pressure exerted on the cable market, what will prevent cable prices from continuing to skyrocket? When sports programming licensing fees increase 59 percent in a three year period, as they did between 1999 and 2002, what would lead us to expect that this upward spiral will cease? I do understand that some of the increased price of cable reflects increased quality - more and better programming. But what will this do for the bottom line of consumers making tough budgeting choices?

Subscription video services have become a vital component of America's information infrastructure, and cable accounts for the majority of that market across the country. According to the FCC, 67 percent of households today subscribe to cable television services, and many others subscribe to satellite DBS services. In Vermont, those numbers are different - we have the highest penetration of satellite of any state in the country, and correspondingly fewer cable subscribers - but we do lack much, if any, wire-based competition to Adelphia, which is the cable company serving those Vermonters. Many satellite subscribers in Vermont have no cable alternative, and vice-versa - so it is of real concern when the prices spiral out of control for services Vermonters have come to depend on, and no real options exist in terms of alternative providers.

I am further concerned that as a variety of factors conspire to raise the cable rates borne by consumers, fewer people will be able to afford access. It is my goal, and should be the goal of this body, to provide access to high quality programming to as many Americans as possible. The data from the FCC and GAO show us that the best way to keep prices low and to improve the quality and quantity of program offerings is to increase competition. While there is a discrepancy in the exact amount of this reduction, all three reports show competition reduces cable rates. The October 2003, GAO study finds that there is a 15 percent reduction in the cost of cable service when there are two wire-based cable competitors. While the impact on cost is less pronounced in the case of satellite providers, the GAO found that better service and programming options accompany this form of competition.

Finally, although I know that my colleagues on the Antitrust Subcommittee do not intend to specifically address media consolidation, it is an issue that is impossible to avoid whenever we talk about providing choices to consumers at a fair price. Indeed the GAO report points to this as an area of concern, although the exact effects are difficult to statistically quantify. If nothing else, the data show that ever-tightening bonds between corporate control of content and of distribution are having an anticompetitive effect on what consumers can see on their screens, and likely on how much they have to pay for it. This has been, and continues to be, an area of great concern to me, and one that I hope our witnesses will address.

Many of the technological issues dealt with by the Judiciary Committee, and the Senate as a whole, are never really put to rest. In the fast-paced world of technological change, providing access to the latest and best information at a fair price to consumers is one such issue, and I am sure this is not the last time we will meet to discuss these concerns. I appreciate all of the witnesses being here today, and I look forward to their testimony.

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