Testimony of

Mr. Landel Hobbs

Chief Operating Officer
Time Warner
November 14, 2006

TESTIMONY OF LANDEL C. HOBBS
CHIEF OPERATING OFFICER
TIME WARNER CABLE

COMPETITION IN SPORTS PROGRAMMING AND BROADCASTING: ARE CONSUMERS WINNING?

before the

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
WASHINGTON, DC

November 14, 2006

Good morning Mr. Chairman, Senator Leahy, and members of the Committee. My name is Landel Hobbs, and I am Chief Operating Officer of Time Warner Cable. Time Warner Cable is the nation's second largest cable operator and the third largest multiple video programming distributor, serving approximately 14.4 million subscribers in 33 states. I want to thank you for inviting me to appear here today to share with you our perspective on how consumers are faring in the current marketplace for sports programming.

The question posed by this hearing is "Competition in Sports Programming and Broadcasting: Are Consumers Winning?" From Time Warner Cable's perspective, the answer to this question is yes ... and no.

Consumers who enjoy sports programming clearly are winning in the sense that there is more sports programming available to television viewers than ever before. In addition to sports programming that continues to be available on traditional broadcast channels, there is also a staggering amount and variety of sports programming available to cable and satellite subscribers through services such as ESPN, TNT and Versus (formerly Outdoor Life), as well as regional and specialized sports channels. And the Internet continues to change everything. Sports are no exception, with more and more sports programming becoming available through Internet distribution every day.

Despite these positive developments, in important ways the proliferation of sports programming is not always beneficial for consumers who value sports - or for consumers generally. In particular, Time Warner Cable has been monitoring, and trying to deal with, two trends over the last several years.

The first trend is the spiraling rise in costs. These cost increases mark every level of the sports food chain, from the high and constantly increasing salaries provided to players to the ever-rising prices for television rights charged by leagues to programmers and charged by programmers to distributors. Ultimately, of course, it is consumers who pay the bills.

The second trend is the ever-increasing fragmentation of television sports rights. This includes not only the continuing division of rights among various programming services, but also the proliferation of channels devoted to, and often largely owned by, individual teams. This slicing and dicing of the rights has unfortunately added to the increases in costs that consumers are being asked to bear.

The NFL Network provides an example of these trends. Prior to this year, the network provided no live coverage of regular season NFL games. This year, the NFL has pulled eight games that used to appear on other broadcasting and programming services and is placing them on the NFL Network, which it owns. While all of these games will continue to be available on broadcast stations in the teams' home areas, the NFL Network is seeking a 250% increase in fees over its 2005 rates and is refusing to allow distributors to carry the service on any tiers except those that reach virtually all customers.

There is another disturbing element to this situation. Individual teams who want to do deals directly with us for non-game content have been precluded from doing so by the League, which will only permit such deals with cable operators who carry their NFL Network.

Having identified these problems, the next question, of course, is what is to be done about them? And more specifically, what role, if any, should policymakers and/or regulators play in addressing these issues?

In Time Warner Cable's view, the government should leave the solutions to the marketplace. This includes not only refraining from undertaking additional regulation, but also reexamining existing rules to make sure government regulation does not contribute to any problems. This review also should include making sure that government policies do not tilt the playing field (a particularly apt metaphor given today's topic) in favor of some participants and against others. In today's vigorously competitive marketplace, such favoritism can serve only to deprive consumers of the full benefits of that competition.

And make no mistake about it, today's video marketplace is vibrantly competitive. Not only do almost all Americans have the choice among at least one cable and two satellite providers, but their choices continue to proliferate, from entry by the telcos to distribution via the Internet.

We should recognize, however, that existing government policies provide certain specific benefits to sports leagues, most notably certain exemptions from the antitrust laws. While I am not an expert in such matters, it does seem important that policy-makers ensure that these exemptions are not reducing competition among sports teams, contributing to the escalation in prices to consumers, or reducing the viewing options consumers may have.

In addition, access obligations and anti-exclusivity rules have been imposed on some, but not all, video distributors. In particular, cable companies are often saddled with obligations not borne by satellite operators. Not only should additional or new obligations be avoided, but policy-makers should fully examine whether this disparate regulatory treatment is warranted and how it contributes to any problems in the sports and video marketplaces.

In calling on our government to refrain from regulation, we recognize that the marketplace is not always perfect. As to sports in particular, Time Warner Cable is not always successful in obtaining terms of carriage that are ideal to keep not only its costs down, but also the prices it must charge its customers to recoup them. In addition, Time Warner Cable is not always successful in obtaining other carriage terms, such as tiering rights, that it would like to obtain in some circumstances. And sometimes Time Warner Cable is not able to successfully conclude agreements at all with channels that it would like to provide its customers if it could obtain the rights on reasonable terms. But however great the shortcomings of the marketplace may be, they pale in comparison to the shortcomings that would result from attempts to impose outcomes by regulatory fiat. Such rules and regulations can never make the fine and constantly shifting judgments that are needed to best respond to consumers' needs and pocketbooks. Only self interested players, trying their best to win in the marketplace, can do so.

In closing, let me add one final thought. Government should be especially wary of the claims of some companies that are quick to call for government intervention when it would restrict their competitors, but vehemently oppose such regulation when it would apply to them. Time Warner Cable has been steadfast in its view that the marketplace is the best regulator, and that the marketplace functions best when any truly necessary government intrusion - absent special circumstances - applies equally to all players.