

# CABLE COMPETITION ACT OF 2006



Despite changes to the federal cable franchise law in 1992, Virginians still have not received the benefit of head-to-head cable video competition. By comparison, competition in telephone has progressed significantly with many consumers having multiple providers from which to choose. Unfortunately, the 1992 Cable Act essentially left the cable monopoly system unchanged. Virginia's Cable Competition Act of 2006 proposes common sense reforms to remove barriers to entry that have left consumers without a choice of cable providers. These changes will provide more choices for consumers and are consistent with the state constitution, comply with applicable federal law, provide consumer protections, and encourage fair competition.

## THE CABLE COMPETITION ACT WILL:

### ■ BRING COMPETITION AND CONSUMER BENEFITS

- No real cable competition means higher prices for consumers
- Cable rates continue to skyrocket, unrestrained by competition
- National studies show cable rates are 15% lower in areas where wired cable competition exists

### ■ SPEED-UP A SLOW PROCESS

- Current system requires video providers to negotiate separate franchises with every county, city, and town on a case-by-case basis
- Negotiations are expensive for all parties and can drag out for many months and even years
- Cable companies use the current Virginia law to threaten litigation and slow the process

### ■ ELIMINATE BARRIERS TO ENTRY

- The current lack of competition proves existing rules are a barrier to entry
- New entrants have to fight for each new customer; incumbent cable providers maintain a significant market advantage since they already have established customers – build-out requirements only protect that advantage
- Build-out requirements will stifle competition and hurt consumers

### ■ PROMOTE A HEALTHY, FAIR AND FREE MARKET

- Cable industry entered the telecommunications market without any barriers to entry and have openly competed for telephone customers since 1996
- Build-out requirements were expressly prohibited in the telecommunications market as a barrier to entry and robust competition now exists
- Exclusive cable franchises were eliminated in 1992 but little competition exists
- Let market competition work the same way for cable customers as it has worked for phone customers





### **Why do we need to change a law that already seems to permit competition with cable companies?**

The current cable law has failed to bring competition and choice to consumers. Consumers want to have the kind of choice in cable service providers that many customers already enjoy in choosing telephone providers. The barriers to entry need to be eliminated to encourage competition. For example, the law requires that new entrants into video markets must operate under rules “no less burdensome or more favorable” than the incumbent. While that provision may seem harmless on its face, the reality is that it is being used to erect barriers to entry. Similar barriers do not exist in the telephone industry and if they did there would be little competition. The telephone law recognizes that a new entrant must compete for every customer, while incumbents have the advantage of customers that were virtually guaranteed when they invested. We need that same recognition in cable law so that competition can flourish. The market and technology have changed, the rules must also change.

### **What do you do about existing cable franchise agreements? Would this create an unfair disadvantage to existing cable operators?**

The Virginia Constitution may not allow legislation to override existing franchises. For that reason, this legislation leaves intact existing franchises and requires the locality to enact ordinances to impose all the appropriate franchise requirements on the new entrant. Neither local governments nor incumbent cable companies are disadvantaged or harmed financially.

### **Should new entrants be required to “build-out” in every locality to meet the density requirements contained in many franchise agreements?**

Build-out requirements were appropriate when cable companies were receiving exclusive rights to an entire market – that is not the case for new entrants. Requiring build-out to existing levels is nothing more than a way to stall competition by setting an extremely high bar for initial capital investment. Build-out requirements will also mean that only localities that are densely populated are likely to attract competitors. In addition, build-out requirements virtually guarantee that no start-up or small company will ever be able to participate in the video service markets because of the high capital requirements.

### **Hasn't Verizon been successful in obtaining local franchise agreements under the current system?**

After a year of negotiations, Verizon was able to successfully obtain a franchise in the Town of Herndon in July. A few other localities may approve franchises with Verizon this year. Unfortunately, the process can be frustratingly slow and must be repeated for each locality in which competitors want to offer service. At this rate, consumers could be denied real choice for years. The current system is just not designed for promoting competition and inviting investment; it is designed to protect the incumbent.

### **Isn't there federal legislation pending that could pre-empt this legislation?**

Federal legislation has been filed to create a national system for video service. However, the federal process is slow and uncertain. There is no guarantee that federal legislation will ever pass. Other states aren't waiting. Recognizing that capital investment will flow to states providing the easiest entry into cable markets, Texas passed a statewide franchise law that goes much further than the Virginia proposal. The proposed change in Virginia law will attract investment and provide immediate relief to the many Virginians who lack competition for cable television services and are held captive by cable's frequent price increases.