



Program Access:

Perspectives on Legislative and Regulatory Issues
Regarding the Ability of Companies to Obtain
Access to Third Party Programming –
Incumbent Perspective

IPTV & The Evolution of Television

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Telco Video Service

IPTV is the most recent variation of many video telco offerings over the years....

- Section 214 Cable Leaseback Arrangements
- Video Dialtone/Tariffed Service
- Open Video Systems/New Section in Title VI
- Franchised Cable Television
- MMDS/Digital MMDS
- Partnerships with DBS Providers
- IPTV – Title VI?

Congress accommodated the telcos.

Sec. 613(b) cross-ownership prohibition was dropped

Sec. 628(j) was added to extend program access rights to “common carriers”

Coverage for non-vertically integrated and terrestrially delivered programming (sports nets)?



Do IPTV Providers Have Program Access Rights?

- Sec. 628 gives program access rights to MVPDs
- Sec. 602(13) defines an MVPD as “any person ... who makes available for purchase, by subscribers or customers, multiple channels of video programming.”
- A “channel” is a “portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel.” Sec. 602(4).
- Satellite Cable/Satellite Broadcast Programming



Do IPTV Providers Have Program Access Rights?

- The FCC has not ruled whether program access rights apply to IPTV providers. But see sec. 628(j)?
- Do IPTV providers offer “multiple channels” of “video programming”? Cable Service?
- IPTV providers claim they are not cable systems and therefore do not need a franchise.
 - Connecticut DPUC decision
- Is IPTV signal comparable to programming provided by a television broadcast station? Sec. 602(20)
- Streaming/VOD/Linear. Compulsory copyright license?



Other Issues – Tying?

- Recent Cases
 - EchoStar vs. HBO (filed Nov. 20, 2006)
 - Verizon v. Cablevision/Rainbow (settled)
 - Mediacom v. Sinclair (Pending)
 - federal antitrust complaint
 - FCC retransmission consent complaint



Other Issues – Discrimination

- Discrimination – prices, terms and conditions
 - Offering of Service
 - Technology Differentials
 - Similarly Situated

- Format
 - Standard definition vs. high definition
 - Managed Network vs. Public Internet
 - Analog vs. Digital
 - Security