


**CATV Competition: the Future of
Local Franchising**

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April 4, 2006
Legal Seminars Inc.
Seattle, WN
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Overview

- Industry Developments
- State/Federal Efforts
 - Legislation
 - FCC
- Some Perspective

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Packet Switched Data Innovations

- A Revolution in Traditional Economies of Scale
 - Fiber cheaper than copper
 - Digital cheaper than analog
 - Wireless bandwidth capacity
- Fiber Makes Backbone Bandwidth a commodity
- The digital “on-ramps” still:
 - Limited bandwidth
 - Duopoly


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**RBOC Wing Walking to the Future:
Obsolescence of Circuit Switch
Voice**

- Short Term Strengths:
 - Lots of cash
 - Lots of political clout
 - Healthy (but diminishing) cash flows
- Long Term Weaknesses:
 - Obsolete technical plant
 - Obsolete business model based on scale economies
 - Universal service and non-discrimination Expectations

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**Industry Developments: RBOC
Resurgence**

- Short Term Revenue Gains
 - Total Dereg of local phone rates
 - Demise of CLEC competition
 - Absorption of MCI/AT&T Long Distance/Business Revenues
- Major Long Term Gains
 - No fiber unbundling
 - Reconstituted at&t
 - FCC Permits Price and Service Discrimination

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**RBOC Strategy: Use the Cash to
Buy a New Business**

- Fiber to the Home (in stages)
- Enter New Lines of Business (video and bandwidth)
- Use Deregulation to Reestablish Monopoly Choke Points
 - Network Advantages (Economies of Scope)
 - Value of Service Pricing for transport
 - Vertical Integration allows internal preferences
 - Biggest pipe to home, carefully calibrated throughputs

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Industry Developments: Cable

- Continued Debt Burden: Is the price per sub too high?
 - Continued Consolidation-the Adelphia transaction
 - Limited Capital Plans suggest too much mortgage debt limiting new technology expenditures
- Cable and Wireless IP Services
 - New Revenue Streams
 - Free of Regulation

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Cable Still Dwarfed by RBOC

- Size
- Political Clout
- See, e.g. Mr. Icahn’s plans for Time Warner vs. Mr. Whiteacre’s plans for at&t

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RBOC 3-D Chess: Local/State/Federal

- Play All Forums Simultaneously
- Move to the One with Earliest Relief
- Use FCC as Trump Card to win no matter the hand dealt:
 - If No federal legis: FCC defines IPTV as “non-cable service”
 - If federal legis: FCC threat of preemption puts pressure on locals to accept the deal
 - If anti-RBOC state legis: FCC preempts

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Federal Legislation-

- Comprehensive Rewrite Unlikely
 - BITS III? RBOCs hate choice between Title II and IP classification
 - Net Neutrality? RBOCs core concern over future market control
 - Universal Service? New payers strongly oppose
 - Ensign-style deregulation? Silicon Valley/Large business users oppose.

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Federal Video Franchising Easier to Pass—Only 3 Players

- Cable vs. Telco vs. LFAs
- Tauke’s Statement
- Election year complexities

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State Legislation-2005 Texas and 2006 Virginia set the table

- Issues: TX/VA
 - Buildout? No/Yes
 - PEG capacity? Yes/Yes
 - PEG \$? Yes/Yes
 - In-kind/Inets? No/No
 - Existing Franchise Contracts Enforceable? Yes/No

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Lessons Learned for LFAs

1. The Law of Unintended Consequences.
 - Can incumbent abandon
 - the franchise?
 - current service obligations?
 - Cash is Not an adequate substitute for in-kind.
2. Need forward-looking PEG
3. VA and TX bills DO NOT “keep LFAs whole”
4. The “process issues”

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Right-of-way problems and catastrophes

Indemnification
Insurance
Effective remedies for bad behavior
Telcos and small operators are not the same

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The Process Issues

Consumer point of contact?
Remedies against bad actors?

- a. franchise in perpetuity
- b. No contract enforcement

Control over PROW? --Lip-service.

- a. Limited enforcement powers.
- b. Cumbersome enforcement process

Example: Does “stop work” order violate right of access until court decision.

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WHAT'S MISSING IN VA AND TX?

1. Termination or abandonment?
2. Sell out to the other?
3. No consumer rebates, refunds and credits
4. No construction and repair notices.
5. No RF interference restrictions or other non ROW safety issues.
6. No stand-by power.
7. No CPE and cable-ready TV compatibility.
8. No mention of disabled community.
9. No record of customer service complaints.

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WHAT'S MISSING IN VA AND TX?

10. No emergency alert system.
11. No upstream connections for PEG signals.
12. No signal testing or performance evaluations.
13. No restrictions on operator editorial control of PEG.
14. No reference to "non-standard installations"
15. No consumer rights re
 - a. Availability of CSRs
 - b. Billing and late fees
 - c. Notice of service offerings, prices and changes, provider policies.
16. No privacy rights and disclosures.
17. No EEO and Small Business Procurement practices
18. No prohibition of anti-competitive pricing within the franchise area.

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FCC—Hey Don't Forget Us!

Cable Franchise NPRM

- MB Dkt No. 05-311; FCC 05-189
- Issue: Is LFA RBOC Negotiation for Franchise "per se unreasonable" under 621(a)(1)?

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FCC— Preemption of IP (IPTV?) Service Regulation

- E911?
- CALEA?
- Consumer Recourse?
- Net Neutrality?
- Interconnection?
- Non-Discrimination?

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Conclusion

- RBOCs are Coming to Video this time
- Core Debate over Video Franchising:
LFA v. Telco v. Cable Operators
- RBOCs can win without Congress but can LFAs?

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