CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. BINGAMAN). Under the previous order the hour of 12:30 having arrived, the Senate will proceed to the consideration of the conference report accompanying S. 12, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 14, 1992.)

The PRESIDING OFFICER. There will now be 2 hours of debate on the conference report to be equally divided in the usual form.

The Senator from Hawaii.

Mr. INOUYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the conference report accompanying S. 12.

Mr. INOUYE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. INOUYE. Mr. President, I rise today in support of the conference report on S. 12, the Cable Television Consumer Protection and Competition Act of 1992.

At this juncture, wish to thank the members of the conference and the cosponsors of this measure for all of their work on this bill, particularly the author of this measure, Senator DANFORTH, and the chairman of our committee, Senator HOLLINGS.

The purpose of this legislation is very simple and straightforward: to promote competition in the video industry and to protect consumers from excessive rates and poor customer service where no competition exists.

At the same time, it continues to permit the cable industry to grow and bring to the American public a new array of programming and other services.

Mr. President, this bill represents a balanced and bipartisan package.

To promote competition, the bill ensures that competitors receive access to cable programming, not for free, but for the same price that the programming is sold to cable operators. It permits municipalities to construct their own cable systems in competition with the existing operator, and it prohibits a franchising authority from unreasonably refusing to award a second franchise.

Rates for cable service have risen three times faster than inflation, and complaints about poor customer service have been numerous.

And so to protect consumers, the conference report gives the FCC, and in some cases, local authorities, the ability to ensure that rates are reasonable where no competition exists.

This measure also directs the FCC to establish customer service standards.

Mr. President, S. 12 passed the Senate earlier this year by a vote of 73 to 18.

Because of its wide support and logic, a majority of both Republican and Democrats voted in support of this bill.

Supporters of this bill include: cities, consumer groups, most of the trade unions, public and commercial broadcast stations, the religious broadcasters, and senior citizens.

During the course of the committee consideration of this bill, I suggested many times to the cable industry that I would like to sit down and see if we could work out our differences.

My offers have all been declined. In fact, Senators HOLLINGS, DANFORTH, and I sat down with the head of the NCTA and the owners of the major cable systems last year in an effort to explore some compromise.

Our willingness to compromise was met with hardened opposition.

Mr. President, I want to address the contentions of the Motion Picture Association of America, [MPAA] that its concerns were ignored.

That is not the case. The MPAA opposed the provision in the House cable bill that would have restricted foreign ownership of cable systems.

Mr. President, that provision is not in the conference report.

The MPAA requested that the Senate include language prohibiting a cable operator from requiring a financial interest in a programming service as a condition of carrying that service. That language is in the conference report.

When the retransmission consent provision was included, the MPAA requested that we include report language clarifying that retransmission consent did not have any impact on future determinations concerning the cable compulsory license.

That language was included and is in the conference report. However, after the fact, the Motion Picture Association changed its mind and decided to oppose retransmission consent unless the cable compulsory license was repealed.

The cable compulsory license is a Judiciary Committee issue, and we all know that.

The Commerce Committee has done nothing to prevent the Judiciary Committee from taking whatever action it deems appropriate on the issue.

In fact, the House provided for the Judiciary Committee to participate in the conference, but, the House Judiciary Committee elected not to participate.

Had the House Judiciary Committee exercised its right to join the conference, the Senate Judiciary Committee would have been invited as well.

Finally, it is important to recognize that retransmission consent does not cause any harm to the motion picture studios.

The motion picture studios will not lose $1, or be subject to one additional regulation, as a result of this bill. The conference report states that the motion picture studios are free to negotiate whatever they deem appropriate when they sell their programming to broadcasters.

In fact, some studios have already revised their contracts to require that any compensation resulting from retransmission consent shall be paid to the studio.

Regarding retransmission consent, I also want to note that when the Senate considered this legislation in January, the cable industry supported the Packwood substitute, which contained the identical provision on retransmission consent. Thus, every Member who voted for the substitute or S. 12 voted for retransmission consent.

The retransmission consent provision in the conference report is identical to the substitute provision and S. 12 as approved by the Senate.

This measure will restore to broadcasters the same rights that every other programmer has. All other programmers have retransmission rights today, but the FCC took away the broadcasters' retransmission rights in 1959 to help a fledgling cable industry. There is simply no reason to artificially subsidize the cable industry off the backs of the broadcasters anymore.

The cable industry is no midget. They are giants today. The cable industry has opposed the legislation and has utilized a campaign that included not only misleading advertisements but inserts in cable subscribers' bills and even calls to cable subscribers in their homes in an effort to generate opposition to the bill.

So, Mr. President, I ask unanimous consent to include in the RECORD two articles, one from the Richmond Times and the other from the Washington Post, on this matter. These articles describe better than I can the consumer

service were 30 percent lower in areas where there was competition.

For these reasons, the conference report does not permit the FCC to regulate rates for cable service where there is no effective competition. The conference agreement further provides that, where there is no effective competition, the FCC must ensure that the rates for basic service are reasonable and that the goal of such regulation is to provide for consumers the rates that would be charged if there were effective competition.

In prescribing such regulations, the FCC shall seek to reduce the administrative burdens on subscribers, franchising authorities, cable operators, and the Commission. There is a separate provision requiring the Commission to also reduce burdens on cable systems with fewer than 1,000 subscribers.

As passed by the Senate, S. 12 required automatic regulation of certain tiers of cable service in addition to the basic tier, if less than 30 percent of cable subscribers took only the basic tier. This provision is not in the conference report.

In addition, both S. 12 and the conference report include what could be called a bad actor provision. The conference report provides that the FCC may regulate, on a case-by-case basis, rates for tiers of programming other than basic if it receives a complaint that demonstrates that a rate increase is unreasonable. The conference report does not permit regulation of programming services offered on a per-channel basis, such as HBO and Showtime.

Finally, the conference report includes the House provision that prohibits cable companies from requiring customers to buy the basic tier and upper tiers before they could purchase premium channels, the anti-buy-through provision. To ease the burden on cable operators, however, the conference report gives cable operators 10 years to comply, and the FCC may waive the requirement if cable operators show that compliance would raise consumer rates.

ACCESS TO PROGRAMMING

The access to programming provisions of S. 12 were designed to encourage competition. These provisions provide other multichannel video providers with access to the programming owned by cable operators on the same prices, terms, and conditions as cable operators.

The conference agreement adopts the House language which has a similar effect as the original Senate provisions. The conference report prohibits discrimination that would have the effect of significantly impeding competition. Exclusive programming contracts are prohibited for 10 years unless the FCC determines they are in the public interest. The FCC may extend the 10-year time period. Programming vendors owned by cable operators may establish different prices, terms, and conditions which take into account economies of scale, costs savings, on other direct or economic benefits.

The access to programming provisions also ensure that satellite dish owners and wireless cable subscribers will have access to programming at reasonable prices.

The conference report does not require cable programmers to give their programming away for free, or even to make it available at discount rates. It only requires that it be made available and that the price not be discriminatory.

RETRANSMISSION CONSENT

The retransmission consent provision is straightforward: When a local station forgoes the option for must carry protection, it may utilize its retransmission rights to negotiate with the local cable system over the terms and conditions of its carriage on the system. Thus, broadcasters will have the option of being treated like any other cable programmer. Cable operators are not required to pay any compensation to broadcasters. In fact, Telecommunications, Inc. [TCI], the largest cable system in the country, has stated that it will not compensate broadcasters for carriage of their signals.

S. 12 will not cause consumer rates to increase because the bill explicitly requires the FCC to consider the impact of retransmission consent on rates in implementing this provision, and the FCC must ensure that this provision complies with the requirement that subscribers' rates be reasonable.

MUST-CARRY

The must-carry provisions in the conference report are very similar to those that were in S. 12, as passed by the Senate. On the issue of stations with sales presentation formats, the conference report includes a compromise that bars such stations from receiving "must-carry" pending the outcome of the FCC proceeding to determine whether such stations are meeting their public interest obligations. The conference report also requires that this proceeding be a de novo proceeding.

Mr. President, it has been argued that S. 12 will irreparably harm the cable industry. I can assure you, as all experts have noted, it will not. Last week's Wall Street Journal stated that the new bill will not hurt cable stocks despite operators' complaints about new financial burdens. That article also quotes a Bear Stearns analyst as saying that the cash of cable operators will not change as a result of this bill.

S. 12 will promote competition, Mr. President, and impose regulation until that competition develops. So I urge all of my colleagues to read the GAO report and the Consumer Federation study and to look beyond the rhetoric being employed by the cable industry to the solid foundation that supports S. 12.

Mr. President, I urge all of my colleagues to support the conference report on S. 12.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Thank you, Mr. President.

Mr. President, I want my colleagues in the Senate to know that the conference report is not, by any stretch of the imagination, the same as S. 12 when it was passed out of the Senate.

Here we are today on the floor of the Senate unnecessarily spinning our wheels in what amounts to nothing more than a special-interest mudslinging contest between competing communication industry segments; debating a massive and, yes, regressive stifling cable reregulation bill.

At the same time, Mr. President, major national communications policy questions critical to our great Nation's economic and social welfare to go unaddressed.

This is unfortunate. In many ways it is tragic. It is an occurrence that is becoming too common here in the Congress. As gridlock, frustration, partisanship overtake the Senate and the Congress, it is becoming increasingly clear that we are seemingly unable to address the major issues of our time.

Today, in America, we are witnessing the dawn of a new era—the information age. As a result of breathtakingly rapid technological developments in the computer software and hardware, consumer electronics, and cable television and telecommunications industries, a true revolution in the delivery of entertainment, information, transactional, and telecommunications services is at hand.

Through a confluence of interests, this information age, digital technology revolution will bring together a broad cross-section of industries that have heretofore considered themselves unrelated. The marrying of the cable converter box with the computer, the digitizing and compression of audio and video programming, the widespread utilization of fiber optic technology, as well as computer software multimedia development, will ultimately allow immediate access to and manipulation of a bounty of entertainment and informational products, educational and instructional services, health care and telemedicine applications, transactional services, huge databases, and the like.

Over the balance of this decade and into the 21st century, this digitization phenomenon will revolutionize the communications industry, have profound implications for the consumer electronics, entertainment, and computer industries, and change our way of life forever.

We in this Congress have a golden opportunity to be America's new high-tech pioneers—an opportunity to explore the new American frontier of high-tech telecommunications and computers that will be unleashed through the deployment of hair-thin, glass strands of fiber optic cable and the crackling of radio spectrum frequencies.

exported by countries that encourage a steady stream of ideas and innovations in communications, not in countries that construct an array of regulatory obstacles and barriers.

Cable operators and programmers are preparing for the 21st century by continuing to expand viewer choices and to develop new technologies. The conference report accompanying S. 12 would not further these efforts—in fact, it would have a contrary impact. In the end, consumer choice could be drastically reduced. That is why I will continue to work to defeat this bill.

Mr. President, I ask unanimous consent that the veto message by Mr. President Bush be entered into the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 17, 1992.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, DC, Washington, DC.

DEAR SENATOR DOLE: I am writing to express my strong opposition to the Conference Report to accompany S. 12 (Cable Television Consumer Protection and Competition Act of 1992), which the House and Senate will consider in the next several days.

This legislation will hurt Americans by imposing a wide array of costly, burdensome, and unnecessary requirements on the cable industry and the government agencies that regulate it. The heavy-handed provisions of the bill will drive up cable industry costs, resulting in higher consumer rates, not rate reductions as promised by the supporters of the bill.

The bill also restrain continued innovation in the industry, cost the economy jobs, reduce consumer programming choices, and retard the deployment of growth-oriented investments critical to the future of our Nation's communications infrastructure.

My vision for the future of the communications industry is based on the principles of greater competition, entrepreneurship, and less economic regulation. This legislation fails each of these tests and is illustrative of the Congressional mandates and excessive regulations that drag our economy down.

Congress would best serve consumer welfare by promoting vigorous competition, not massive re-regulation.

For these reasons I will veto S. 12 if it is presented to me, and I urge its rejection when the House and Senate consider the Conference Report.

Sincerely,

GEORGE BUSH.

Mr. BURNS. Mr. President, I ask unanimous consent that an array of editorials by major newspapers across the country, all the way from the Dallas Morning News, the Wall Street Journal, saying that this business of reregulation is very dangerous especially in this area, be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 19, 1992]

UNCLE SAM IN CHARGE OF CABLE

The cable legislation approved by the House and now headed for a Senate now calls for the federal government to step in and reregulate the industry from rates to program packaging. But this approach assumes that cable, now supplied mostly by monopolies, is a utility as necessary as electricity or telephone service. In fact, cable is a consumer option in what should become a more competitive market. This particular bill would give government a role in cable that consumers may not find so welcome over the long haul.

Forget the cable industry ads predicting that passage of the bill would send everybody's cable rates through the ceiling. Forget as well the arguments of supporters—including over-the-air broadcasters, who like a provision that would force cable operators to negotiate with them before retransmitting their signals—that the bill would force price cuts of up to 30 percent. Both sides—and we note here that The Washington Post Co. owns cable systems as well as broadcast televisions stations—have resorted to heavy lobbying. So has the motion picture industry, which opposes the bill because Hollywood wouldn't get any cut of the royalties that broadcasters could seek from cable operators.

Under the measure, the government would set "reasonable" rates for what it would define as "basic" programming, control prices for installation and equipment, require efficient customer service and force cable operators to equip all subscribers for channel selections that now are sold as packages of channels. The result of all these requirements is not more competition; it's more likely to be cost-cutting by eliminating cable programming or even entire channels.

The effort to control gouging by cable operators should focus on increasing competition, not on heavy reregulation. Until competitors do materialize, some determination of a reasonable rate of return for certain basic cable service is a legitimate legislative pursuit next year. This bill goes overboard.

[From the Wall Street Journal, Sept. 17, 1992]

CABLE KIBOSH

The cost of two tickets to a Broadway show is now more than $100. The $5 movie ticket is a thing of the past in most cities. But is anyone calling for federal price controls on Broadway or the movies? Yet that's precisely what Congress will do to cable television if it passes a bill to reapply 1970s-style regulation to the industry.

Voters are in an ugly mood, and incumbents are desperate to show effort for the folks back home. It's no surprise Congress has seized on cable TV rates, which have gone up faster than the rate of inflation and are a sore point in many of the 60% of American homes with cable. But rather than find ways to make the industry more price competitive. Congress is on the verge of short-circuiting a new, promising technology for short-term political gain.

More troubling, there are rumblings that the Bush administration will take a pass on a long-promised veto. That's because House Minority Leader Bob Michel has gone over with the re-regulators (and the broadcasters), calling into question a veto-override vote.

The bill before Congress is a nightmarish morass of rules that can only impede the development of cable technology and new programming. Venture capitalists won't want to become hostage investors in cable under a provision requiring them to wait three years after purchasing a system before they can sell. The bill so micromanages cable companies that it even specifies the number of phone lines they must have to handle complaints.

The cable industry, for all its lobbying and moaning, isn't particularly credible because of its record of defending local cable monopolies. After the industry secured the deregulation of cable-service prices from Congress in 1984, it continued to insist that cable was a natural monopoly and that cities should grant just one franchise per city. This ignored the record of the 65 cities that allow more than one cable operator. In those more competitive areas, cable TV prices *fell* an average of 25%, and subscribers had fewer service complaints.

By seeking to protect their noncompetitive franchises while defending their right to run up prices, the cable industry invited Congress to re-evaluate its 1984 decision to deregulate. Defenders of the cable bill before Congress claim it will work against monopolies by barring cities from awarding "exclusive" cable franchises, but that is legal gobbledygook. Few cities award explicitly exclusive franchises, and no one thinks the bill will affect any of their cozy deals with local cable firms.

If Congress would only resist the temptation to keep changing the signals it sends on cable TV, emerging new technologies will make many of the complaints about the industry moot. Local telephone companies will soon be able to transmit TV signals using digital and fiber-optic technologies. Computers will be linked with TV monitors to offer a variety of viewing choices that will make today's cable systems as outdated as a rabbit-ears antenna. But there is no way the benefit of these emerging technologies can be fully realized if Congress insists on second-guessing the process every step of the way.

[From the Dallas Morning News, Aug. 15, 1992]

CABLE TV: RATE REGULATION ISN'T THE BEST ANSWER

With an enormous budget deficit breathing down its neck, Congress cannot afford to court the voters' favor this year by approving a big, across-the-board tax cut. So lawmakers have had to look for other means to show empathy for their constituents' economic plight. One way has been to go after the cable television industry in hopes of driving down rates.

A conference committee is about to consider House and Senate bills that would reregulate cable TV. Eight years ago, Congress relieved cities and counties of that regulatory authority. At the time, the cable industry argued that local control no longer was necessary, since its competition with broadcast TV, videotape rentals and other forms of entertainment would hold down rates.

As any cable subscriber knows, that has not worked as well as planned. Rates have gone up substantially, and customers continue to complain about service.

Enter Congress, with its proposed price controls. Both House and Senate measures would require the Federal Communications Commission to set the rates for basic cable service; local officials then would be responsible for administering the schedules. The House bill also would punish cable operators who charged "unreasonably" for more specialized programming.

Virtually everyone agrees that problems exist with cable TV. But the idea of Congress again allowing communities to play politics with local franchisees is hardly comforting. President Bush has promised to veto the legislation, as well he should.

But, then, what will help consumers? Healthy competition. Satellite services and other technologies are gearing up to vie with cable companies. The government should do whatever it can to encourage that competition, so that viewers can choose from among various channel providers.

won't have an immediate impact on cable rates, because it will take years for the phone companies to upgrade their networks for video service.

Instead of limiting itself to worrying about rate regulation and protecting would-be competitors, Congress would unnecessarily restrict the cable industry. It wants, for example, to dictate equipment standards and fees and limit marketing practices. Generally, it intrudes too far into cable management.

Even if the votes appear sufficient for an override, President Bush should stick to his pledge and give Congress a fight on this clumsy cable legislation.

CABLE TV REGULATION: PHONY CONSUMERISM IN AN ELECTION YEAR

What will we ask the federal government o do for us next?

In a fit of demagogic pandering, Congress s in the process of passing a bill that will ncourage excessive regulation of the cable V industry, including the rates charged to istomers.

I am hard pressed to think of a worse exnple of government mischief. Having heard m cable TV customers griping about rate creases, obedient congressmen in an eleon year are passing a truly lousy bill that jects government into rate-fixing merely cause consumers would like to pay less.

Normally, under our hallowed free enterise system, when a seller charges too much a product or service the consumer asserts power simply by not buying. The only lemate exception to this eminently workle rule is when the service is essential and st efficient to deliver as a monopoly, such telephone or electric service. Cable TV is essential and need not be a monopoly. It kes no more difference in the grand eme of things whether a given cable comy offers good service at fair prices or not. n when normal marketplace conditions uce cable TV companies without direct petition, the case does not exist for govnent regulation.

e federal government should have taken sson from the city of Columbia, which for years to regulate cable TV rates in ange for granting a "franchise." The arement was bogus. Predictably, it did not and eventually officials wisely decided d regulatory activities. Courts also weighed in with a variety of decisions ing excessive regulation of cable TV anies by overeager government enti-

umbia's city charter prohibits the ing of exclusive franchises, meaning no any of any kind can have a governgranted monopoly. If the feds wanted a good law, they would have limited selves to this requirement. In many ets, even anti-trust rules will not result ad-to-head competition, but so what? roper role of the government is fulfilled uards against restraint of trade. It is bounds when it tries to decide what is rate for non-essential services operatthe free marketplace.

body would like to pay less for mov- lots of towns, only one movie house es. Maybe the federal government get into regulating movie prices. Certhe availability of movies at fair is just as important as cable TV. If we he government to keep a lid on pricing le TV, what product or service would apt from such attention?

let Big Brother take over all our -be free market decisions so we can njoy this good life.

[From the St. Paul Pioneer Press, July 28, 1992]

CABLE BILL NEEDS MORE CONSUMER PROTECTION

Now that the House of Representatives has joined the Senate in a veto-proof vote to re-regulate the cable television industry, Americans can look forward to the mixed blessings of price controls. Basic cable rate increases will slow, so, quite possibly, will new program development and other innovations.

As we argued during Senate deliberations last winter, the rate re-regulation seems a reasonable risk. But this bill still includes provisions that are anything but consumer protection. They are, in fact, requirements that consumers subsidize cable television's competitors. Those provisions should be stripped from this bill.

Cable rates have increased punishingly since the industry was largely freed from regulation in 1984 (by about 60 percent on average nationwide, and more in many areas). And because most cable operators function as monopoly providers, rate regulation is justified. Such regulation would be discontinued whenever "effective competition," defined as a competing cable or satellite video service, develops in a given community.

Federal Communications Commission guidelines, meanwhile, should prevent local regulatory units from returning to the parsimonious price limits that stunted cable's development in the 1970s and early '80s.

But the misguided provisions still clinging to this bill should be opposed by all consumers. The Senate bill, though not the House version, allows broadcasters to charge fees to cable operators for the retransmission of broadcast signals. This would amount to allowing broadcasters to use cable operators as bill collectors, who will of course pass these fees along to subscribers.

But broadcast television is supposed to be free: that's the broadcasters way of paying for use of the public airwaves. They should not be allowed to charge for their signals just because a consumer chooses to receive them via cable rather than through an antenna.

Other provisions that will pick consumers' pockets include a requirement that cable operators equip every subscriber home to receive premium channels, whether the subscriber wants those channels or not. This will saddle all cable subscribers with a capital cost that benefits the premium program distributors, whose service will become cheaper. But it will be cheaper only because the technical cost of hookup will have been shared by people who don't even want these services. People shouldn't be forced to subsidize products they don't want.

If it can be cleansed of these anti-consumer provisions in conference committee, the cable re-regulation bill makes sense. Rather than pointlessly vetoing the entire bill, President Bush should use his influence to lobby for the removal of these special interest goodies, and then sign off on rate re-regulation.

[From the Akron Beacon Journal, July 27, 1992]

REELING OVER CABLE

Consider cable television another entitlement program. At least, that's the thrust of legislation approved overwhelmingly in the House last week calling for re-regulation of the cable television industry.

Of course, in 1984, Congress deregulated cable, and the result has been a flourishing industry. The number of channels has increased. The quality of programming has improved. Cable has more subscribers than ever, roughly 54 million and rising.

So, why regulate the industry again? Lawmakers are convinced the price of cable has gotten out of hand. And to be sure, monthly subscription rates have risen by more than 50 percent, reflecting, in part, the virtual monopoly that franchises have.

The price increases, however, should be put in context. After all, as prices have gone up, the industry has attracted more subscribers. What's more, price increases have moderated in recent years, and competition looms from more advanced TV technology. In that environment, the new controls suggest a wish to provide everyone with access to cable, in a word, an entitlement, no matter the impact on the industry.

Unfortunately, for all the talk of doing consumers a favor, the House bill, as well as even more troubling legislation approved in the Senate, would stifle innovation. It would diminish opportunities for improved programming, as tight regulation did a decade ago. That's hardly consumer friendly.

In an election year, it's hard to overlook the politics at work. Faced with a huge budget deficit and an agreement with the White House that limits spending, the Democratic majorities have few issues to tout. The cable bill offers taxpayers something before November.

And sure enough, U.S. Rep. Edward Markey, the Massachusetts Democrat, provided the sound bite: "Think of this bill as a 6 billion tax cut for consumers."

President Bush has pledged to veto the legislation, arguing, quite rightly, that such re-regulation is overkill for what is isolated price-gouging. He might add that in an industry that is as rapidly changing as cable television, it's silly to think that Congress can write broad and effective laws. Better to head in the other direction, toward greater competition, allowing cable to pursue the many alternatives that busy consumers want.

[From the Quincy (MA) Patriot Ledger, July 27, 1992]

CABLE TV PROTECTION FRAUD

Congress should zap legislation reimposing rate regulation on cable television. The proposed remedy could drive your monthly bill up instead of holding it down.

For the last few years our congressmen have been trying to produce a regulatory program that would be a big hit with consumers angry over cable subscription rate increases.

Congress has gotten involved because in most communities cable companies enjoy a monopoly and local government control over rates ended five years ago. Not surprisingly, the result has been a surge in prices charged viewers—increases cable companies blame on higher costs of service and programming and viewers denounce as unregulated greed. Part of the problem is that cable prices in the startup years of local franchises were artificially low.

Normally, competition would resolve price-and-service questions in the marketplace. But as yet meaningful competition hasn't developed in most cable markets. What Congress should have done, therefore, is to provide some basic protection to the consumer from price-gouging and encourage competition, such as from rival cable companies, or satellite or microwave transmissions.

Instead, House and Senate bills propose regulation that gives the illusion of consumer protection without the substance. The House bill crafted by Rep. Edward J. Markey, D-Mass., for example, would require the Federal Communications Commission to establish a formula for the maximum rates for basic cable service. This service would

through rather than the best and most innovative new ideas scientists, business people, and entrepreneurs can develop.

Some authorities have been estimating that it could take a decade and an investment of up to $400 billion (about what the federal deficit is in one year) for the phone companies to replace old copper wires with fiberoptic cables throughout the country. The implication supporters of reregulation want to draw is that the promise of TV on the phone lines is a long way off, so we need regulation in the meantime. But it won't take a decade—or nationwide hookups—for the competition to have an effect.

Some regional companies will move quickly. Some may choose to use "video compression," which would permit the use of existing copper wires—not quite as desirable as fiberoptics, but easier to get going quickly. And some new technology better than fiberoptics might well emerge in the next decade.

A decision that allows existing technology to be used is welcome. But it shouldn't be necessary to beg some federal agency to use new technologies or try new businesses. Drastic deregulation—perhaps including elimination of the FCC itself—would be the best way to facilitate innovation (and help spur an economic recovery). Which political candidate is ready to call for it?

[From the New York Times, July 20, 1992]

HOW TO BREAK THE CABLE SQUEEZE

Cable television companies, free of meaningful competition and, since 1984, of regulation, have been socking customers with immense rate increases. The House votes this week on putting an end to the gouging. The Senate passed its version of cable reregulation earlier this year, so a "yes" vote in the House would successfully conclude an uphill, three-year battle.

Even so, viewers will need to beware. The House bill re-regulates with heavy hand instead of a light touch, saddling cable companies with burdensome regulations. The threat is that costly regulations will force local authorities to grant large rate hikes, or force cable companies to cut service and put off investment in new service.

The right, light touch would be to rein in the bad actors—cable companies that shamelessly exploit captive audiences—and pave the way for the competition from satellite broadcasters, "wireless" systems and other entrants. There's a model for smart re-regulation. The House passed just such a bill two years ago, but it was buried in the Senate.

It's too late now for the House to vote "no" on the pending bill; there's no telling how long it would take to push through a better one. But just passing the bill is not a valid option either; President Bush is sure to veto it. That leaves one constructive way out: for the House to pass the bill but agree to prune its excesses in the consequent conference with the Senate.

The bill would require the Federal Communications Commission to set guidelines for the price of basic service by cable companies that operate without meaningful competition. But this bill unnecessarily roams far beyond retransmission of broadcast networks and public-access channels, the objects of the 1990 version. For example, the bill includes long-distance broadcasts from super-stations like WGN in Chicago.

The House will also vote on a provision that would virtually prohibit exclusive contracts: agreements by which programmers, for a lucrative fee, agree to sell to only one cable system. Often these contracts would be rightly prohibited as anticompetitive; they keep popular programs out of the hands of cable's competitors. But they can also be a lifeline for start-up programmers, and a lifeline for viewers hungry for something new.

The 1990 version would have allowed pro-consumer exclusive contracts; the language the House is expected to consider this week, in effect, would not.

Re-regulation could never be the ideal response to angry customers. Over time, even well-written provisions become ineffective. A better answer is more competition. Last week, the F.C.C. took a giant stride in that direction by voting to allow telephone companies to provide TV services.

They are unlikely to do that, however, for a decade. Satellite broadcasters might enter earlier, though no one knows for sure. So until the day that customers can pick and choose among multi-channel providers, re-regulation is needed. The best way to achieve it is for the House-Senate conferees to undo the excess and preserve the essence:

Control basic service, eliminate all egregious behavior and protect competitors trying to gain a foothold. Cable customers need protection and fair charges; overprotection would mean overcharges and under-service.

[From the Atlanta Journal, May 22, 1992]

CABLE TV BILL MEANT WELL, BUT HAS BECOME OVERLOADED

Politicians know numbers, as in votes. And they like nothing better than to stand up for the little guy against giant monopolies. Sometimes they do it right, but too often even good intentions give way to evil outcomes.

So it was two years ago that Congress decided to look at a bill that would lower cable television rates nationally. Sixty percent of American homes now have cable. It is available to 90 percent of them.

Congress is involved because back in 1986 it did the right thing. It deregulated the mammoth industry, removing rate regulation from local authorities—city councils and county commissions. It is one of the few situations in which Washington does a more effective job than states and localities.

Perhaps because politicians had kept rates artificially low, prices have soared since 1986. The industry argues that even though rates have far exceeded the rate of inflation, the number of channels has increased, offering more value for the money. Congress, nevertheless, felt the pressure to regulate rates and mandate improved service.

If it had kept to those two premises, few would complain. But the Cable Reregulation Bill has become a consumer's nightmare and a lobbyist's dream.

The Senate has passed a bill that offers both federal and local regulation—a nightmare. Local regulation raises serious First Amendment questions. The industry complains that provisions in the measure would stifle development of new networks, expansion of channel capacity and movement on new technologies. It steps heavily into the thicket of copyright law, demanding that cable programming be sold to all comers.

The bill also offers a bonus to over-the-air television broadcasters in the form of payments for carriage on cable.

The issues are complicated, but what's been lost in the fight among lobbyists is the bill's original intent—some protection from cable customers.

The bill next must pass the scrutiny of the House Energy and Commerce Committee. House members have before them an alternative to the massive bill drafted by the Telecommunications Subcommittee. It focuses on rates and customer service. With time running out for consideration of so complex a measure, the House should return to the alternative.

Or better yet, given the industry's new responsiveness to customer complaints and the scare it is getting daily, Congress might just forget the whole thing and keep a hammer in hand for when it is needed.

[From the Akron Beacon Journal, Apr. 30, 1992]

NIGHTMARE FOR CABLE

For all their recent troubles, members of Congress haven't lost their capacity to hear. In this election year, with many customers of cable television complaining about what they see as excessively high rates and lousy service, lawmakers have jumped to act. They're ready to re-regulate an industry they wisely deregulated eight years ago.

In fact, the Senate has already acted, approving a bill in January that would place new rules on cable operators, telling them, in effect, now to run their businesses. The prices they charge would be regulated, as would the services they provide.

A similar bill is making its way through the House. Both pieces of legislation pose headaches not only for cable operators but for customers. The bill to re-regulate cable promises to hamstring an industry that in recent years has grown dramatically, providing television watchers with more choices in programs and better service.

That isn't what lawmakers say they've heard. And true enough, some cable operators have abused their virtual monopolies in communities, raising rates exorbitantly, serving customers sourly and slowly.

More often than not, however, the situation is like the one here in Akron, where Warner Cable has raised prices, but not unreasonably. Today, Warner charges $20.45 a month for its standard, 30-channel service, 58 percent higher than six years ago. Still, the company has added new channels to the point where the per-channel cost of the standard package is 6 cents higher than it was in 1986.

That's hardly gouging, especially when you consider how effectively cable has expanded, developing new programs and extending wire to more and more residences. Indeed, while terrible things have supposedly been happening, cable's subscription rates have skyrocketed. In Greater Akron, for instance, the number of subscribers has increased from 70,276 in 1986 to 95,984 in 1991.

All the while, Warner Cable has been paying a franchise fee to the cities it serves. Akron, for instance, received $878,081 last year. All told, Warner has paid more than $7 million to area communities since '86.

Although most communities are served by one operator, cable companies hardly lack competition. The rental home video alone has caused them to sweat anxiously. And it's not going to get easier, as such innovations as wireless cable and direct broadcasting systems appear.

If truth be told, the video marketplace is robust and rapidly changing, making the idea of re-regulation shortsighted. The rules written today are likely to be obsolete soon. That isn't an excuse for the bad actors among cable operators. They deserve attention, but the result shouldn't be punishment for the industry as a whole. Innovation should be encouraged. Otherwise, consumers lose.

[From the Richmond Times-Dispatch, Mar. 30, 1992]

CRIPPLING CABLE TELEVISION

Consumers beware: That man with the fraudulent message is back.

"I'm from the federal government," he is saying, "and I am here to help you."

"Help" of the kind he is offering already has cost the country too much money and grief. What he intends to do in this instance is tighten the regulatory tentacles of govern-

same players hold the key to rapid innovation that would benefit the larger economy. The chairman of the Federal Communications Commission, Alfred Sikes, would like to give the Bells a toehold. (The visiting chief economist at the agency, meanwhile, is Thomas Haslett, who has written widely invoking the First Amendment and antitrust on behalf of wide-open cable competition.)

Republican Senator Conrad Burns of Montana is author of a bill permitting Bell entry, though some industry specialists doubt the economics are ripe for the phone companies to get in for a few years yet. Smaller players fear that when the telcos do move, they'll be able to shift costs to local phone users to undercut the competition. An understandable apprehension, but the Bells are now themselves under challenge on so many fronts, including some types of local service, that the danger is probably overstated. Only the dreamiest regulation fan would think it possible for a bunch of twenty-something congressional staffers to devise some scheme to direct the flow of all this entrepreneurial energy.

Any time the government bestows special privileges on a business, as it does with local wire, it becomes awfully difficult to unravel the favors and "level the playing field." The cable franchises and the phone companies certainly enjoy a leg up, and were they to combine, most likely in a joint venture, they would be formidable.

Yet "monopoly" becomes a less certain concept in an industry where individual consumers and entrepreneurs can act so nimbly. Even the simple competition posed today by the video-rental market is "a killer," according to one cable executive. Exclusive franchises, objectionable as they are, haven't spared cable companies from looking over their shoulders and spending like mad on technological improvements destined to bring remarkable new options in the years just ahead. In the quicksilver world of telecommunications, the complacent, stupid or slow will not be tolerated long, even with the state behind them.

Innovation, as economist Joseph Schumpeter was foremost in describing, is littered with the carcasses of the worthy and unworthy alike. It is hard to imagine that the federal government can adjudicate this process in any manner but to drag out the pain and delay the unfolding of a wondrous technological epoch.

[From the Cleveland Plain Dealer, Feb. 14, 1992]

THE URGE TO REIN IN CABLE TV

Judging by its lopsided passage through the Senate, legislation that would reregulate cable television rates has bipartisan appeal in this election year. A similar measure is expected to fare well in the House. But before consumers start rubbing their hands over the prospect that their monthly-cable bills will be forcibly held down, they should ponder the possibility that financial controls on the industry will boomerang, stifling future expansion of program choice.

Local government curbs on rate increases is only one of several limitations or requirements Congress seems eager to impose on cable operators. Others have to do with offering programs to competitors, restricting cable companies from arbitration adding or subtracting programming, and, probably most distasteful to the industry, allowing over the air broadcasters—such as Cleveland's Channels 3, 5 and 8—to demand payment for transmitting their shows.

Lawmakers may plead, of course, that they're simply responding to their mail. Since cable was deregulated in 1986, average monthly charges for basic service have risen 58%, twice the overall inflation rate. Constituents, especially in those areas where bills have greatly exceeded that figure have howled in protest. Since cable is in most places a monopoly because of the cost of constructing competing systems, it is deceptively easy to conclude that operators are gouging their customers.

Cable's side of the argument is that operators are making up for revenues held inhibitingly low by pre-1986 rate controls, that program packages have been greatly expanded, and that only a few operators have been conspicuously greedy. Those assertions evidently did not impress most senators and probably won't be persuasive in the House.

The industry's case, however, has merit. Indeed, cable appears ready to concede that rate reregulation is almost inevitable and now seeks to have controls set by the Federal Communications Commission rather than a multitude of municipalities throughout the country. For all its allure to lawmakers and consumers alike, restoring rate contols is a speculative exercise. But having the FCC apply guidelines could minimize damage to operators finances and, therefore, to subscribers' range of choices.

Cable may be about to become a victim of its own success. Viewers in the 1970s could scarcely have imagined the array of programming that would be at their fingertips once government had lifted its stifling hand from industry finances. Today nearly 60% of the population has cable installed, and an additional 30% has it available. Some subscribers have come to regard cable as a necessity rather than a choice, especially since the medium began to buy rights to sporting events once available only on advertiser-supported, over-the-air TV. Legislators actually have been heard to express worry that if people are priced out of cable reception, an "informationally deprived" class will be created.

Meanwhile, "free" TV, contending it is competitively disadvantaged, is fighting back. Where once over-the-air broadcasters campaigned to have cable stations include their programs—for better reception, for one reason—they now ask to be paid or otherwise compensated for transmission rights. Rep. Dennis Eckart, Democrat of Mentor, has sponsored legislation to give over-the-air stations the right to negotiate conditions for allowing cable to pick up its signals. Again the issue is not as clear cut as advocates suggest. If "free" TV is permitted to charge cable for its programs, it is hard to see how the costs would not be passed on to the consumer, even under reregulation.

President George Bush as threatened to veto the bill—a principled stand on a populist issue—but the reregulation lobby believes he might change his mind as he begins to count election realities. If so, the public's long-term interests may be ill served. A debate on cable TV's performance may well be justified, but if vote getting dominates all other considerations, viewers may pay in loss of quality for what they save in their pocketbooks.

[From the Boston Globe, Feb. 12, 1992]

CABLE INDUSTRY'S CHANGING PICTURE

"Cable viewers want more channels, reasonable rates, said a Globe headline last week that sums up the problem with the cable television business. A bill passed by the U.S. Senate needs to be fine-tuned in the House to better fulfill these two competing goals.

The Senate bill has three main features:

Communities would be allowed to regulate the rates for basic TV service, something they have been barred from doing since 1984. They also could establish service standards and set charges for converter boxes and remote-control devices.

TV stations would be able to charge cable companies for retransmission of programs.

Wireless cable operators and satellite services would get assured access to cable programming.

Regulation of such necessary items as converter boxes and remote controllers is long overdue. As with telephones, customers should be free to buy this equipment from a variety of suppliers.

Cable TV subscribers are fed up with rate increases, but most appreciate the improved programming prompted by deregulation. Capping the 80- or 40-channel package preferred by most subscribers would discourage cable operators from adding programming to this tier.

Last year, Rep. Edward Markey of Massachusetts, the chief cable regulator in the House, endorsed the creation of a minimum tier consisting of the broadcast channels, community-access channels and C-Span, which would be available for a low monthly charge. Whenever the cost of the 40-channel package got out of line, thrifty subscribers could switch to the minimum tier.

If a community thought the rates for MTV and the like were too high, Markey would allow it to seek a hearing before the Federal Communications Commission.

Markey's plan would provide a sensible degree of consumer protection without leaving the cable companies at the mercy of local regulators. This mandate ought to be included in the House bill instead of more extensive regulation, and Cable News Network, because of its importance, might well be included in the minimum tier.

The task of the House is to preserve a balance between consumer protection and preservation of the cable industry's ability to raise money for improved technology and programming.

Cable is allowed by law to pick up over-the-air broadcasts without charge. The retransmission provision is the most contentious in the Senate bill.

If it became law, the provision would merely provide another reason for cable operators to raise their rates. Viewers, who already pay for TV ads when they buy products hawked on the air, would be doubly penalized.

For 45 years, broadcasters have controlled the public airways at little cost, thanks to the generosity of the federal government. Congress is well within its rights to allow the cable industry to share in this publicly subsidized service.

With over-the-air stations still grabbing most of the audience in cable-wired homes, there is no need for a retransmission fee at this time.

Today, with cable available in most of the nation, this industry and over-the-air broadcasting exist in a competitive equilibrium. But this will change as new technologies compete with cable to transmit programs into the home.

These may consist of a small receiver, a fiber optic line, or something as yet barely imagined. Whatever happens, the Senate was wise to include in its bill a provision that cable broadcasters make their special channels available on reasonable terms to companies promoting the new technology.

Cable viewers' desire for "more channels, reasonable rates" will best be met by increased competition for their dollars. That should be the focus of congressional concern as technology evolves.

[From the Washington Times, Jan. 30, 1992]

CABLE-TV "GOUGING" ISN'T THE PROBLEM

Cable television customers everywhere are increasingly angry, so it seems, at the rising

puts the squeeze on consumers, too, as franchise fees and the burden of dealing with local bureaucracies and special interests drive up cable companies' costs and rates.

Defenders of this state of affairs argue that cable TV is a "natural monopoly." According to this argument, a cable TV operator must make a substantial, initial investment in its distribution system to serve a particular market. After it makes that investment, almost all of its distribution costs are fixed. No prospective competitor will attempt to compete with an established operator for its customers, and an established operator will be in a position to extract monopoly rates and profits.

Reregulation is, by this argument, necessary for keeping rates down. Franchise fees are necessary to make sure the operator "gives back" something to the locality it serves.

The "natural monopoly" argument is, however, wrong in both theory and fact. If an established cable TV operator raises rates enough, other operators will, contrary to that argument, find it profitable to compete. The risk of inviting such competition and, with it, of losing the value of its initial investment will deter the established operator from raising rates.

Experience shows this risk is real: There are instances of head-to-head competition between alternative cable operators serving the same market. Ironically, though, head-to-head competition is just what local governments don't want. Once a second operator enters a market, the whole idea of a cable franchise collapses and, with it, the possibility of charging a franchise fee and extracting other benefits for local government.

Moreover, cable will increasingly face competition not only from over-the-air local broadcasters, who provide their television for free but new, emerging technologies. Microwave systems that deliver dozens of channels are sprouting up in many cities, aided by new fee rates designed to encourage their development. And direct broadcast satellites are scheduled to launch in the years ahead.

The solution to the cable TV "problem," then, is not reregulation by cities, but less city regulation. Cities should encourage alternative cable operators, as well as alternative distribution systems like satellite master antenna television, direct broadcast satellite television and multichannel multipoint distribution systems.

And Congress should let the marketplace work. It is time to take the squeeze off cable TV operators and their customers.

[From the Boston Globe, Aug. 31, 1991]

KEEPING CABLE'S PRICE WITHIN SIGHT

Cable television has made giant strides in programming since the business was deregulated in 1986. Only a modest degree of re-regulation is needed today to protect consumers from pricegouging and ensure that the cable signal is not placed out of reach of people on limited incomes.

In Tennessee, some companies raised their rates by more than 100 percent in the first three years after deregulation. In the Boston area, where competition from television stations abounds, price increases averaged 42 percent over five years. Responding to cable operators' greed, Rep. Edward Markey of Massachusetts and Sen. John Danforth of Missouri have filed bills that would impose far-reaching rules on operators.

Cable systems have invested much of their windfall in improving their product. In the five years since deregulation, spending on programming has more than doubled, from $491 million to $1.26 billion. More than 30 special channels are now available, ranging from the Cable News Network to Black Entertainment Television to the Travel Channel.

Cable companies pick and choose among channels they deliver to their customers, and some are barely worth watching. But as a whole, these special channels add an important dimension to television viewing. They have ended the stranglehold of the networks on the creation of programs and have given attention to minorities slighted by regular broadcasters. Together with prerecorded videotapes, they have transformed the way Americans watch television.

The Senate and House bills do not address the improved quality of cable, but focus instead on three issues: price, the impact of cable on over-the-air broadcasters, and future competition.

Both bills provide for the re-regulation of all cable rates, especially the basic tier where most of the special channels are grouped. Markey's bill also would require cable companies to provide a bargain tier comprising five or six off-the-air channels plus local public-access channels.

The bargain rate is a splendid concept that would have provided those Tennesseans with a recourse from price gougers. Now, it would provide an entree into cable for people who cannot afford the $20-$30 monthly charge for the basic service.

Given the improvements in basic service, its cost is not excessive in most communities. There would be no reason to regulate it as long as viewers could choose the bargain rate in lieu of a price increase.

In the early days of cable, conventional broadcasters welcomed the re-transmission of their signals by cable companies. Viewers in communities beyond the reach of conventional transmitters sweetened the broadcasters' ratings.

Now that cable is a strong competitor, the networks and most local stations want a share of its profits. At their behest, senators have included in the Danforth bill a requirement that cable operators obtain a broadcaster's permission to re-transmit its signal.

Cable companies have run ads in the Globe and other papers urging their customers to fight this proposal, which they say could add 20 percent to cable bills. That figure, based on a rash CBS estimate, is overblown, but if the bill passes, some broadcasters will demand money for their signal, and cable rates will surely rise.

Cable operators have invested billions in cable and transmission facilities that extend and improve the conventional broadcast signals, yet no one ever asked the broadcasters to pay them for this service. Requiring cable companies to subsidize the broadcasters would place an unneeded burden on cable customers.

Broadcasters say they are losing audiences and profits to cable companies. Indeed they are, and with good reason. The quality of the typical network program in prime time is unappealing to many viewers. Even reruns of "Mr. Ed," a night-time staple of the Nickelodeon cable network, are refreshing by comparison.

Just like the networks, cable operators are seeking to penalize the competition. Their focus is on the future, when entrepreneurs using direct satellite links to viewers may provide 50- or 100-channel services.

"Let them set up their own CNN or Nickelodeon," the cable owners say. It is likely that without re-regulation they could deny competitors access to the special channels that are vital to the success of a multichannel system.

Both bills would require the cable companies to allow competitors to buy their services. As did the cable companies in their early years, these new services need access to existing programming if they are to have a chance.

The cable companies may be their own best competition. They are talking of systems that provide 200 channels and a vast range of pay-per-view services. Congress will need to make sure that if these services become popular, the cable operators do not neglect their responsibilities to provide quality programming to customers who can afford only the less expensive tiers.

Twenty years ago, when broadcast television was dominated by the three networks, many viewers complained there were rarely any programs worth watching. That dearth of choice ended with the emergence of cable and videotape.

Although only a bit of re-regulation is needed now, Congress must make sure that as cable technology changes, its benefits are shared as widely as possible.

[From the Philadelphia Inquirer, July 12, 1991]

THE COST OF CABLE TV

Around the clock, most American television's can tune in network shows, 24-hour news, movies galore, health stuff, congressional coverage and more. Thanks to cable TV, 55 million homes now have this variety of offerings. But this boon has been accompanied by griping about how fast the cost is rising. Since 1987, when cable television was freed from price controls, the average rate for cable service has increased more than 50 percent. So lawmakers have been working on what to do.

Naturally, cable companies want to stave off renewed controls. They argue that the price hikes of the last few years were needed to compensate for the unrealistically low charges under regulation, and to pay for the increasing diversity of cable programming. As one industry official puts it: "There isn't any regulatory scheme in the world that can get you filet mignon for the price of hamburger." Maybe so, but if there were only one place to get filet mignon, you can bet its price would be even higher.

That's the basic problem: Cable TV is a monopoly with great power to dictate its price. That's why the Federal Communications Commission last month revived price regulation of basic cable service in markets with fewer than six broadcast television stations. (That takes in about one-third of all cable customers.) And it's why the Senate Commerce Committee recently passed a plan to regulate cable service in nearly all U.S. markets—and to reduce some of the anticompetitive forces in the cable industry.

The Senate bill includes a number of sensible changes but goes overboard on some basic points.

Under the Senate bill, the price of basic cable service in areas that don't have numerous free stations would be reviewed by the Federal Communications Commission or by a local agency approved by the commission.

But the Senate plan also would let regulators control the price of additional services, such as CNN, ESPN and so on. This gives us the whim-whams. Sure, cable operators have been repackaging their services—shifting popular offerings into more expensive levels of service—in the hope that Congress will limit any new regulation to basic service. Still, overdoing it on price control would stifle the cable industry's innovativeness in programming. If the cable systems were hobbled in this way the biggest winners would be the major networks and their affiliates—not the public.

Under the Senate bill, local cable companies would also be required to carry all local television stations, including ones with weak signals. That's in the public interest, but

Congress and the FCC claim they are trying to protect.

[From the Duluth (MN) News-Tribune, Dec. 16, 1990]

LET MARKET REGULATE PRICES

It sounds tempting—especially after the Reagan presidency gave such a bad name to deregulation—but government should resist the temptation to wider regulation of cable TV rates or expand federal civil rights laws to car purchases.

The Federal Communications Commission is considering a plan to give local government more control over rates for cable TV services.

Anyone who hasn't winced recently at rising cable rates either has someone else pay the bill or isn't hooked onto the cable. But there's an easy way for cable customers to stop spiralling rates: Call up the cable company, and tell them to unhook it.

Some may consider cable TV a necessity, but it isn't. The marketplace can regulate these prices just fine.

The same is true with the prices of new cars, despite a recent survey that says women and blacks pay more for the same car than males and whites. The author of the study, to be published in the Harvard Law Review, said the discrepancy could be dealt with by expanding federal civil rights to car purchases or by federal regulation of their prices.

The author says there's no reason to believe racism or sexism caused the discrepancy. He thinks dealers believe they can drive a harder bargain with women and blacks—and so stick closer to sticker prices.

We wonder what we'd find in a study of how much more or less is paid for cars by members of different occupations, ethnic groups, zodiac signs, etc. In any case, the idea of government stepping in because some groups drive a weaker bargain than others is the height of silliness.

A proper government role is to protect the weak from the strong and all of us from basic transgressions by others. But those of us who can't stand to cut off the cable or haggle with car dealers should look to ourselves, not government, for answers.

[From the Schenectady (NY) Daily Gazette, Sept. 13, 1990]

LEAVE CABLE TV ALONE

Funny how lawmakers suddenly start listening to their constituents around this time of year. With an election just two months away, the House voted unanimously this week for a bill to re-regulate cable television rates. The vote was clearly in response to the thousands of complaints lawmakers have received about the rise in cable rates since deregulation took effect in 1986. However popular it may prove with voters, it was not the right response.

Basic cable subscribers have been angered by rate increases averaging 43 percent over the last four years, and who can blame them? The price of few other goods and services rose as fast during this period.

But the increases were mostly justified, for a number of reasons. For starters, in the years prior to deregulation, cable operators frequently found it difficult to recover their costs. Local politicians, who controlled rates prior to deregulation, held increases to substantially less than the inflation rate.

Another justification for the rate increase has been the improvement in basic service: not only are most systems providing more channels, but the quality of the programming on the channels has improved. You didn't see major league football games or nearly as many baseball games on cable prior to deregulation, nor were there as many high-quality shows or movies produced exclusively for cable networks. These programs cost money, and have forced the companies that provide them to raise rates to cable operators. In turn, cable operators have had to pass their increases along to subscribers.

Deregulation simply hasn't been the nightmare that every member of the House thinks it is. Yes, cable operators still have virtual monopolies wherever they're granted franchises. But the explosion of the home video industry has provided some competition, and direct satellite broadcasting is expected to provide even more within the next three years. Rates have, in fact, moderated over the past two years after the initial post-deregulation spike.

Instead of re-regulating the cable industry, Congress should be looking at ways to deregulate it even more: make it easier for second cable companies to enter a market. That would provide the competition needed to temper rates.

[From the Houston Post, Aug. 5, 1990]

TANGLED WIRES: CABLE TV INDUSTRY NEEDS COMPETITION, NOT REGULATION

There's a move afoot to have the federal government regulate the cable television industry. There are bills that would do that in both houses of Congress.

Certainly there is a perceived need for this. The industry has tended to put the thumbscrews to consumers since it was deregulated in former President Ronald Reagan's drive to get the government out of business.

Most of the deregulation moves have been positive. Air travelers can fly cheaper then ever before and telephone service prices have come down. But there are two exceptions—the most horrendous being the deregulation and subsequent insanity in the savings and loan industry. The second is cable TV. If only a pale shadow of the S&L debacle.

Still, there are cable abuses, such as high prices and poor service. In 1989, the overall consumer price index rose 4.2 percent. During the same time, cable rates rose more than 13 percent. In Houston, in the deregulation year of 1984, Warner Cable's basic rate was about $11 a month. It rose to more than $17. Like an ill-fitting bathing suit, other cable providers have been afflicted with the same upward price creep.

Since the Cable Communications Policy Act of 1984, cable operators have been able to set their own rates after two years of service and they have been able to offer just about any programming they wish.

Cable, once used only to bring television to remote areas where broadcast signals couldn't reach, has spread like Kudzu vine over the country. In 1989, it covered 53.8 percent of the country and it's still growing. In Houston that year, 47 percent of all TV households subscribed to cable. That's lower than other Texas cities, such as San Angelo with 83 percent or Austin with 58 percent. However, both Warner and Storer Cable Communications, Houston's major providers, have increased their subscriber list over the years.

In 1985, Forbes magazine said the purchase of a cable system for $1,600 per subscriber would be "astronomical," but in 1989 a cable system can easily be sold for more than $2,000 per subscriber. Now that's big business.

Both the House and Senate have bills pending that would authorize the Federal Communications Commission to regulate rates for basic cable service if they are unreasonable or abusive. Also the legislation would require the FCC to set service and technologies standards for cable customers.

The operative words here are "basic service." Remember a few weeks back when cable companies here changed their channel numbers? This was done to include a new stripped-down package of channels and it happened all over the country. It was a move to stave off re-regulation. If the legislation passes, the FCC will have something to regulate while rates on the more expensive and more desirable cable-service packages could keep on going up and up.

New Warner Cable is about to change channel designations again "for the customer" by putting broadcast channels on the same channel numbers they use over the air. Guess what? The same-channel requirement is part of the Senate bill cable re-regulation bill.

Even concerning the abuses, re-regulation is not the answer. What's needed is increased competition. The FCC issued a staff report saying the same thing. The agency proposed "to a more competitive marketplace for the distribution of multichannel video services."

It's the American way and it's the way to go. New companies and new technologies are more likely to emerge to compete in the freer market, and this should benefit the consumer. Its almost always better to switch than fight.

[From Universal Press, Apr. 23, 1990]

DANGER SIGNALS ON CABLE TV REGULATION

(By James Kilpatrick)

It is a sound principle, or so it seems to me, to look with dark suspicion upon any effort by government to "protect" us. In obedience to that principle, let us be wary of Sen. John Danforth's pending Cable Television Consumer Protection Act. It may be a bummer.

The gentleman from Missouri is disturbed at some things that have happened since cable TV was deregulated five years ago. He sees the evil consequences of monopoly. Between 1986 and 1989, cable rates in Jefferson City increased by 71 percent. In Cape Giradeau, rates soared by 100 percent. Without re-regulation in some form, he sees nothing to prevent cable providers from gouging their subscribers and delivering lousy service to boot.

Well, maybe so, but voices of experience should whisper in our ears. The parallels are not exact, but most of us can recall—plaintively and poignantly—the kind of telephone service we had before government got into the act, it was the best service in the world. Then the courts went to work and broke up AT&T and the Bell system. Now the service is often terrible and it costs a ruddy fortune.

The theory behind the telephone fiasco is the same theory Danforth and his colleagues are resurrecting here: Monopoly is bad; competition is good. The theory is fine, but before Congress applies the theory to cable TV, let us take care not to hobble a healthy horse.

Today the best estimate is that 53 million homes—about 57 percent of all television households—have cable. In the past decade, cable advertising revenue has ballooned from $58 million to $2 billion. More than 9,000 cable systems are now in operation.

The data suggest that the industry must be doing something right. If you accept the industry's statistics at face value, always a risky thing to do, basic cable rates since 1972 have lagged behind the rate of inflation. The cable operators are selling entertainment at an average cost of $15 per household per month—less than what it costs to take the family to a single baseball game. This doesn't smack of monopoly gone berserk.

Under Danforth's bill, regulation of basic cable rates would revert to local city councils wherever a cable operator had no "effective competition." In these circumstances, local governments would have to fix rates

the House bill would cost the Federal Government at least $100 million over 5 years, while the estimated cost of S. 12 was only $33 million for the same period of time.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, on behalf of the proponents of the conference report, I yield myself such time as I may require.

Mr. President, this point in the course of the legislation is now 3 years in the making. The first cable bill was introduced just about 3 years ago now. We have been working on it ever since. We have been attempting, or had attempted, in the early stages, to work with the cable industry. And, in fact, back in 1990 we believed that we had worked out an agreement with the Cable Television Association for legislation.

In June of 1990, we held a markup in the Senate Commerce Committee, and we found out immediately before going to markup—the same morning as the markup, as I recall it—that the cable industry had changed its position, that it wanted to put into the legislation what amounted to a special antitrust exemption which would hold the cable industry in a different position from the ret of the country with respect to antitrust. And as a result of that sudden, 11th-hour demand, we were unable to reach agreement with the cable industry, so we proceeded with the markup anyhow.

At the beginning of this Congress, in January of 1991, on the first day of the Congress, Senator HOLLINGS, Senator INOUYE, Senator GORTON, and I introduced S. 12. This particular bill, therefore, was introduced on day 1 of this Congress, and it appears likely that if there is a vote on the President's veto—and there may not be—but if there is a vote on the President's veto, the vote will occur on the last day of this Congress.

This legislation has been worked on over a long period of time. We have had in the Commerce Committee 14 days of hearings on the cable bill. So this is not something that has been done quickly. It has been done very slowly and very deliberately. As a matter of fact, I think that it is fair to say that the tactic of the cable industry has been to make us go as slowly and deliberately as possible, including delaying the vote on the President's veto until time has run out for Congress to act in this session. The tactic has been one of delay.

In January of this year, the Senate voted on S. 12. It was an overwhelming vote. The vote was 73 to 18. As Senator BURNS has pointed out, this bill has been changed since the version of S. 12 was voted on, 73 to 18 last January.

The changes that have been made, Mr. President, are changes that favor the cable industry. The conference report that is now before us is much more favorable to the cable industry than the bill we voted on and passed, 73 to 18, last January.

For example, the definition of the basic tier of programming that can be regulated is much more favorable to cable—that is, much narrower—in the conference report than it was on the floor of the Senate last January. The rate regulatory power of the municipalities is more narrow in this conference report that it was in the bill that was passed 73 to 18 in the Senate in January.

Furthermore, the access to programming provision strongly opposed by the cable industry is sunsetted in this legislation. That was not the case in S. 12, which passed the Senate by a vote of 73-18. So the changes that have been made are changes that are favorable to the cable industry.

One wonders what possible rationale there could be for a Senator changing his vote on the conference report. Certainly not that the legislation is tougher for the cable industry than S. 12 was back in January. I think that the only rationale is that the tactics that have been pursued by the cable industry have been so tough politically that it might be hard for some Senators to continue voting for the cable bill.

Cable television not only is an unregulated monopoly—which is a wonderful business if you can get it—but the cable monopoly has the power to communicate. That is what cable television is: the power to communicate through commercials on television, and the commercials that have been run are commercials which have been designed to frighten the American people. It is a campaign of fear that has been run by the cable operators. And it is not only the use of the programming, the commercials on cable television, but flyers that have been enclosed in cable bills telling people that their rates will go up, and apparently various phone calls to people.

There is a sad story in the Richmond Times-Dispatch of September 17. The story begins as follows. The headline is: "Cable TV Lobbying Sparks Caller Anger."

For Sherri Wertz, disabled by multiple sclerosis and living on a fixed income, television isn't only a companion—it's "my best friend."

When a caller warned the Virginian that her cable bill might jump from $50 to $80 per month if Congress passes legislation for the government to regulate cable television, she was alarmed.

So she accepted the man's offer—on behalf of the National Cable Television Association—to have her call transferred to her senator's office free.

It was 10 or 15 minutes later, as Mrs. Wertz was listening to an aide to Sen. Charles S. Robb say cable operators might lose money under the bill, that the telephone line went dead.

Mrs. Wertz, who lives on the Peninsula, is furious.

And the article continues.

Then there was the article in the Washington Post on September 18. "Cable Lobby: At the Tone, Get Irate at Your Senator," a very, very funny article. I believe that the Senator from Hawaii has already put this in the CONGRESSIONAL RECORD, so I will not do it again. But it has the transcript of what appeared on the answering machine of a Member of the Senate. I will just read a part of this article.

Unfortunately for the cable company, its representative forgot to get off the line. Soon the senator's staffers were quaking with mirth as was a reporter who heard a playback. The "spontaneous outrage" had all the subtlety of a guillotine:

First voice (male): "Ma'am, you just speak."

Second voice (female): "I don't know what I'm speaking about."

First voice: "Uh, the cable bill. You don't want your cable prices to go up, right?"

Second voice: "No, I do not."

First voice: "Well, okay, just tell 'em that."

Second voice: "Tell 'em what? I mean . . ."

First voice: "That you don't want your cable bill to go up."

Second voice: "That's all I have to say?"

First voice: "Yes, that's all."

Second voice: "Okay—Senator, I do not want my pable—cable bill to go up."

First voice: "Thank you."

Second voice: "Thank you."

So that is from the article in the Washington Post.

The cable monopolies, Mr. President, want us to believe that if the local municipalities regulate the unregulated monopolies, cable rates will go up, not down. That, of course, is contrary to the position that is taken by, for example, the Consumer Federation of America, which has said that cable rates would go substantially down under regulation. It is contrary to the Justice Department's finding that about 45 percent or a half of cable rate increases were based solely on the industry's monopoly in the market.

Mr. President, I certainly share the basic philosophy—and it is clearly a basic Republican philosophy, a conservative philosophy—that competition is superior to regulation. And, in fact, back in 1984, when we voted—and I was one of the people who did vote—to deregulate cable television, we assumed that there would be competition.

The chairman of the Communications Subcommittee, Senator Goldwater, argued at that time that by 1986 or 1987, every homeowner in this country will be able to have television reception, directly from satellites, of television programs going on in literally every country in the world. And the then chairman of the Commerce Committee, Senator PACKWOOD, predicted that we would be putting satellite dishes on our roofs in 2 to 3 years. And the then president of the National Cable Television Association, Thomas Wheeler, testified before a Senate hearing that: "Cable systems are overbuilding each other. And by 'overbuilding,' we mean that a consumer will have a couple of choices of cable companies. There will be two cable wires running down the street."

made by the cable television industry and the huge contributions they have made.

I ask those who are for this bill, where else is there any programming for children on television? The broadcast industry who is dramatically pushing for this piece of legislation, have virtually abdicated their responsibility when it comes to children's programming. There is virtually no programming on commercial broadcast stations now for kids.

On the other hand, Nickelodeon, Discovery, Cable in the Classroom, almost third—maybe close to a half of the junior and senior classrooms in the country have been wired by the cable industry. Appealing to the interests and needs of young people—cable television has done that, the over-the-air broadcasters have not.

There is an explosion of television programming on cable television. The premium services, like HBO, Showtime, and Disney, have increased with the expenditures from $1 billion in 94 to nearly $3 billion a year today. Basic cable programming investment has gone up six times, from $300 million to close to $2 billion a year.

So if this debate were about services being offered to the American public, the proponents of the bill would be rejoicing with us at the enormous job that has been done by the cable television industry. The facts are indisputable. They are out there clear as a bell. In fact they would not be talking about rates, either, because the facts of the matter are that the consumer on an inflation adjusted basis pays less per channel today than that consumer did in 1986.

So this is not an issue that has to do with services. This is not an issue that has to do with rates. If it were service and rates we would have had an agreement on bill a long time ago. We were ready to go with a piece of legislation related to services and rates. It is not about that whatsoever.

What this is all about is that this legislation has turned into a free-for-all involving several large and wealthy commercial interests. Cable's competitors have hidden behind these so-called consumer protection issues, the service issues, in order to advance communication policies that would never stand on their own. The financial records that the conference report hands to these competitors has now clearly placed consumer concerns as the driving force behind the legislation.

For example, the broadcasting industry will benefit financially if the retransmission consent must-carry provisions become law. To get those records the National Association of Broadcasters has financed and led a massive lobbying campaign in support of the legislation. That is such an extraordinary lobbying campaign that in as I have written to the chairman of the Commerce Committee, they have abrogated their public interest responsibilities in terms of responsible broadcasting. The broadcasters have moved far beyond normal lobbying tactics. In the famous memos that have come out from the NAB, which I have discussed here on the floor—the National Association of Broadcasters ask the television stations to in fact get their news departments to skew the news, so they can have their point of view come forward. That is a breach of the public trust and it is outrageous.

We are talking about the little old lady that Congressman SWIFT used to talk about or the consumer that the distinguished Senator from Missouri was talking about.

What about this fundamental issue, Mr. President, of the broadcasters requesting their news departments to lobby for their own commercial interest? That is what this is all about, it is for their own commercial interest.

The conference report has become overweight, fat and bloated with favors for cable's competitors, including ABC, CBS, NBC, and the other broadcasters, direct broadcast satellite operators like General Motors Hughes Communications, and the wireless cable operators. These provisions do not protect consumers. Not at all. What they do is line the pockets of the other interests that, just as they have for the last 60 years, are trying to keep the new entry down.

This conference report is going to lead to higher rates for consumers. There is just no question about it. In many cases, it is going to require a payment for the so-called retransmission consent.

Where is that money going to come from? These are the same broadcasters who used to beg and do everything they could to ensure that cable television would carry the broadcasters' signals.

Now they figure there may be a new trick in all of this and what they are going to do is not only line their own pockets but also what they are going to do is run flat in the face of the people who own this programming.

Who owns this programming? Not the broadcasters. Broadcasters do not own this programming. The people in Hollywood for the most part own this programming. The broadcasters in this are arrogating unto themselves the responsibilities of collecting fees for something that somebody else owns.

It is wonderful if you can get away with it. And they are trying to get away with it. They are terrorizing Members of the Senate and terrorizing Members of the House with fears about what is going to happen to them in new programming.

It is going to happen in other ways, too, Mr. President. Legislation requires cable systems to install expensive new equipment. This is presumably to allow consumers to pick and choose between all cable networks rather than paying for a package of stations they do not want. The list goes on and on, Mr. President.

Mr. President, this is bad legislation. If this were just dealing with rates, if this were just dealing with service we would have had an agreement a long time ago. The reason it has been contentious is that all these other interests are trying to carve off another piece of the pie for themselves.

The cable industry has invested an enormous amount, they brought enormous services to America. The broadcasters were coughing a little dust as the cable industry went by and now they are trying to use legislation to accomplish what they could not do in the marketplace.

Mr. President, I ask unanimous consent that the information on the NAB memorandums and editorials from the Rocky Mountains News, the Denver Post, and the Washington Post along with my full written statement to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, DC, September 3, 1992.

To: Television Group Heads and Television General Managers.

We are in the fight of our life . . .

But, we fear too many broadcasters are content to sit back and hold the coats of those who are on the front lines.

Congress will adjourn on October 3, 1992. The cable industry has launched an all-out offensive featuring bill stuffers, network ads, local system ads, op-ed pieces and visits with Members of Congress, designed to do the following:

Prove to the administration that if the President vetoes the cable bill, they will do everything imaginable to support that veto.

Convince consumers that the cable bill is "anti-consumer," thereby giving cover to Members of Congress, Senators in particular, who want to risk changing their vote and oppose passage of the cable bill.

This effort will succeed unless—

Broadcasters do everything within their power to counter the NCTA offensive.

You have been given spots—Please run them.

You and your employees have been asked to communicate directly with your Senators—Do it and often. Ask for the order. Do not take no for an answer.

You have been given material for use by your news department that gives lie to cable's claim—Tell it like it is. Generate the news stories.

You have been asked to communicate personally and directly with Members of Congress, especially your Senators—Please do it today.

You have been promised any other supporting material necessary—If you need something, call the cable hotline [1-800-562-8830] and ask.

We have about 20 legislative days left to insure victory on the cable bill or lose it the last moment. We can think of no outcome harder to live with than one which is the direct results of unwillingness to participate. Anyone who does not believe that it is important to stand up and be counted does not deserve the benefits that will be realized from the successful passage of the cable bill, which will include retransmission consent and must carry.

The time is now. The choice is yours.

Sincerely,

Gary Chapman, NAB Joint Board Chairman; John Bebank, Government Relations Chair, ABC Affiliates; Ron Town-

they don't attract big advertisers and can't be supported by ad dollars alone. What keeps them on the tube are the checks that subscribers write to their local cable company each month.

Take away the cable companies' ability to keep pace with the increasing cost of creating these shows, and the number of quality programs on the tube may decline.

Yet the cable industry never adequately explained this simple fact to its customers, so it's not surprising that consumers now are demanding quality programs, but simultaneously complaining that they don't want to pay for them.

The criticism of the cable industry's poor customer relations especially applies to some of the cable firms based in the Denver area, which number among the largest cable television enterprises in the country and which own dozens of systems across the nation.

These companies need to acknowledge the political forces rocking their corporate ships.

Competing industries—including broadcast stations, movie studios and video rental shops—have piggybacked their selfish concerns on top of consumer discontent.

For example, there's a new technology called High Density Television or HDTV, that will revolutionize video the way the compact disc transformed audio.

Cable TV systems are racing to put in new fiber optic systems that will allow them to bring HDTV to consumers in the very near future. But this investment will cost hundreds of millions, even billions, of dollars.

Since fiber optic networks will give cable TV companies an advantage over broadcast stations, the broadcasters have a strong interest in seeing price controls slapped on the cable business: if the cable companies don't have enough revenue coming in from subscriber fees, they won't spend as much money putting in fiber optic systems.

In the end, American consumers won't have access to HDTV or other new technologies as quickly as they would have without this political manipulation.

Congress and the FCC should peek behind the mask of consumer protectionism in which other entertainment industries have wrapped their pleas for price controls on cable TV.

Government interference only will reduce the financial ability of cable companies to put good shows on the tube and to move forward with promising technologies. The results only will harm the consumers that Congress and the FCC claim they are trying to protect.

[From the Denver Post, July 30, 1992]

CABLE BILL SHOULD DIE

George Bush should, as he has threatened, veto a cable TV reregulation bill that Congress passed last week. It's a poorly written and contradictory piece of legislation, crammed with so many gimmicks that it resembles a Christmas tree decorated with parts from the local junkyard. Worse, in the long run it could harm consumers.

The Senate version would force cable TV companies to negotiate with local broadcast stations for the right to carry their signals—KHI in Denver and United Cable in the Denver suburbs, for instance, would have to negotiate with local channels 2, 4, 6, 7, 9, 12, 20, and 57, each of whom could drive their bargains.

Of course, the broadcast stations would demand money from the cable company for the privilege, and those costs would be passed on to consumers through higher monthly cable rates by the cable TV companies dumping the channels they now offer, to save money. This outcome could hardly be called consumer protection, as some members of Congress claim.

In the House version of the bill, the Federal Communications Commission would have to draw up a formula for cable TV prices across the country—never mind that circumstances may vary so much from city to city that a nationwide equation might be unworkable in some places. Local governments then would have to figure out how the formula applies in their cities and force the local cable TV company to comply—in other words, local governments would have to play traffic cop on a road designed by bureaucrats in Washington.

Congress isn't giving local governments any money to handle the new responsibility—even though some experts figure the nationwide cost of reregulation at about $200 million a year—so cities would have to come up with the dough on their own. In Denver's case, that means the city would have to take some of the $1.53 million it got from cable TV franchise fees this year—which went right into the city's general fund—and instead use it to hire bureaucrats to decipher the FCC formula. That factor is one reason that Bill Bradley, telecommunications chief for the city of Denver, opposes the cable TV reregulation proposal.

Bradley, who has been the head of a national group of municipal cable TV regulators, instead thinks local governments and cable TV regulators, instead thinks local governments and cable television companies ought to sit down at the bargaining table and work out a common-sense compromise themselves. Bradley's idea is a darn good one, but unfortunately Washington isn't listening.

The cable TV industry enjoyed freedom and profits during the 1980s, and it could have thrived for years in that business paradise had it improved customer service and not been greedy. Now that consumer discontent has collided with election year jitters in Washington, a bad idea is on the verge of becoming law.

Bush so far has a perfect record on vetoes. Hopefully, this promised veto will stick as well.

[From the Rocky Mountain News, Sept. 14, 1992]

CONGRESS RESORTS TO OVERKILL IN CONTROLLING CABLE RATES

What with the new bipartisan regard for business, members of Congress don't speak much of "obscene" corporate profits anymore. Cable television, however, sorely tempts some. "Current law tells the cable companies that it's OK to be a thief," harrumphs Sen. Albert Gore, D-Tenn. As soon as next week Congress may well pass "anti-theft" (but, alas, not anti-demagogy) legislation.

The measure, a blending of bills already passed separately by the House and Senate, would require the Federal Communications Commission to set the rates for basic cable service, newly defined to include local stations plus a few national "super stations," in America's diverse communities. Local officials would be left to administer the schedules. The bill is also likely to punish cable operators who charged "unreasonably" for more specialized programming like the Discovery Channel and Nickelodeon and would even specify how many phone lines companies must dedicate to gripes from subscribers.

We somehow have trouble picturing members of Congress as arbiters of economic justice.

Sure, rates have leapt 80% since 1984 deregulation, but partly because companies have been servicing more remote areas. (Ninety percent of U.S. households are now within hook-up range.) The companies also have found it expensive to keep spellbinding promises made to win local franchises—like providing "free" service to public schools. The companies' motive may have been greed, but municipalities conspired in—and are partly to blame for—these unrealistic deals. The ensuing public discontent hardly justifies the micromanagement of a whole industry.

Where cable is a monopoloy, it does indeed deserve additional regulation. But not regulation like this: The bill likely to be passed and sent to the president would not merely establish rate guidelines for basic service, but also force cable subscribers to pay an additional fee to watch programming from local broadcast stations—stations the public can now watch for free without cable—as well as require cable companies to release programming they create themselves to potential competition.

All in all, the plan will probably cost cable companies billions—part of which burden is sure to fall upon cable subscribers. How could it not? Yet congressional supporters of the bill blindly continue to call it "proconsumer."

Congress' majority may be aiming to embarrass President Bush before 52 million cable-using households by passing a bill he has pledged to veto. But perhaps consumers aren't as economically illiterate as members of Congress suppose. Surely many realize that the United States is on the threshold of another home-entertainment revolution, what with "pay for view" (including the possibility of selecting from thousands of movies without ever leaving your home) and other innovations bursting onto the scene. These advances require considerable capital investment, which could be choked off through too-heavy-handed regulation.

Equally to the point, since when did cable become one of life's necessities? If the federal governmental intends to get so intimately involved in managing a discretionary entertainment like cable, why shouldn't it, for example, manage the business of making cars (there are fewer automakers than cable companies, after all).

The best restraint on cable prices is, of course, competition, and it so happens that other technologies and businesses—including telephone companies—are gearing up to vie with cable firms. In the 65 U.S. communities that have allowed multiple cable operators, rates typically have fallen around 25% while programming has expanded. Congress should do what it can to encourage such competition, not redefine cable television as another of life's entitlements.

[From the Washington Post, Sept. 19, 1992]

UNCLE SAM IN CHARGE OF CABLE

The Cable legislation approved by the House and now headed for a Senate vote calls for the federal government to step in and reregulate the industry from rates to program packaging. But this approach assumes that cable, now supplied mostly by monopolies, is a utility as necessary as electricity or telephone service. In fact, cable is a consumer option in what should become a more competitive market. This particular bill would give government a role in cable that consumers may not find so welcome over the long haul.

Forget the cable industry ads predicting that passage of the bill would send everybody's cable rates through the ceiling. Forget as well the arguments of supporters—including over-the-air broadcasters, who like a provision that would force cable operators to negotiate with them before retrans-

pockets? There's no question what we should do. This legislation is a handout for special interests that will hurt consumers in the long run. The Senate should reject the conference report's extraneous provisions and instead tackle the legitimate consumer issues of rates and customers service head-on.

With that overview of my views on the legislation, I would like to review some of the background that has brought us to this point and explain my concerns about the conference report in greater detail.

THE CABLE ACT OF 1984

Before the Cable Act of 1984, the cable television industry was the prisoner of a highly fragmented scheme of local regulation. Local governments kept cable rates artificially low. Between 1976 and 1986, cable prices were allowed to increase at only two-thirds the rate of inflation and, in some cases, dramatically less.

The franchise process, particularly franchise renewals, was an uncharted mine field. No uniform guidelines existed from community to community. The process was often used as a tool to accomplish social or political goals. And an operator had no assurance that its business would not abruptly cease when the franchise expired, even if it has provided outstanding service.

This regulatory system made it nearly impossible for cable operators to make the investments needed to upgrade their systems or develop additional programming services. The Cable Act of 1984 established a more uniform regulatory structure, implemented by the FCC, in order to encourage investment in new plant and equipment, programming and technology.

THE CABLE ACT HAS WORKED

While debate has dwelled on the legitimate complaints we have received concerning rate increases and customer problems in some areas, we should also recognize that the Cable Act has worked in many respects:

First, more people receive cable. The number of cable subscribers has increased from 30 million in 1984 to 56 million today.

The number of cable systems climbed from 6,000 in 1984 to more than 11,000 today. Local governments already have the authority to regulate basic rates for 61 percent of those systems.

The new systems, and expansion of existing ones, have made cable available to most Americans and brought greater competition for broadcasters; 96 percent of television homes can now receive cable. Only 72 percent could in 1984. More than 60 percent of these homes actually subscribe today.

Second, cable viewers get more for their money today. Ninety percent of cable subscribers receive at least 30 channels, with the average subscriber getting more than 35. In 1984, only 38 percent of all cable systems offered 30 or more channels.

One-third of all cable subscribers now receive 54 or more channels; channel capacity continues to increase—late last year a 150-channel system was launched in New York.

As a result of the increasing number of channels, cable viewers actually get a better deal today. The price consumers pay for each basic channel increased at a lower rate than inflation from 1986, when rate deregulation took effect, to 1991.

That's right, when we adjust for inflation, consumers actually pay one penny less for each basic channel than they did before rate deregulation.

Third, cable has invested in new programs for consumers. Cable operators' annual investments for basic cable programming have jumped from $300 million in 1984 to almost $1.8 billion this year. Overall program spending by both basic cable networks and premium cable services, like HBO, Showtime, and the Disney channel, has climbed from $1.1 to $2.8 billion during this period.

The number of cable networks—like C-SPAN, Discovery, CNN, ESPN, and TNT—has increased from 49 in 1984 to 76 in 1991, with continued expansion expected through the 1990's.

Fourth, cable is modernizing our communications infrastructure. Cable operators have substantially increased their investments in plant and equipment; annual spending for this purpose was $100 million in 1983, before passage of the Cable Act. Since 1984, the industry has invested more than $5.4 billion in plant and equipment.

Consumers have benefited from the improved picture quality, reliability, increased availability of cable, and greater number of channels that this investment in new technology has made possible.

The industry continues to invest in new technologies that promise to bring new benefits to consumers. At a time when many other industries have dropped their research capabilities, cable established CableLabs, a new research and development consortium.

Technologies such as fiber optics and digital compression promise a huge jump in the number of channels available to viewers. The industry has already begun to introduce fiber optics in many systems throughout the country.

Cable technology also allows for carriage of high-definition television signals and the industry is involved in research and development efforts designed to bring this technology to consumers. Interactive television is another area of research that could lead to a variety of new services.

Fifth, cable is creating new jobs for American workers. Cable has brought jobs to thousands of Americans since the Cable Act became law. Cable provided 67,000 jobs in 1984 and employs more than 106,000 today. The industry generates another 69,000 jobs through its suppliers.

The impact of cable's growth has been tremendous. For example, the Cable News Network [CNN] is the envy of the world. It has brought world events much closer to us. We have become accustomed to seeing historic events such as the Gulf war and dramatic developments in the Soviet Union and Eastern Europe as they happen rather than seeing brief film clips after the fact. Some observers even credit CNN with helping bring about changes abroad because demonstrators are encouraged by the knowledge that their voice will be heard.

Closer to home, C-SPAN has made television coverage of our debates commonplace. Viewers also now have a wider choice of entertainment, educational, children's, and sports programming.

CABLE'S PUBLIC INTEREST OBLIGATIONS AND SERVICES

The Cable Act imposes a number of public interest obligations on the industry which we don't hear about very often. For example, the 1984 legislation includes important Equal Employment Opportunity provisions to prohibit discrimination in employment in the cable industry and encourage the industry to hire minorities and women. No other sector in the communications industry has agreed to a similar statutory obligation. The House-passed version of the cable legislation would have applied similar standards to television broadcasters. However, the conference report deletes those standards and merely codifies existing FCC rules in this area. My good friend, BILL RICHARDSON, whom I've worked with in the House, opposed the conference report because it diluted those provisions.

Other provisions of the Cable Act allow franchising authorities to require that channels be dedicated to public, educational, or governmental use and require cable systems to make channels available for commercial use. The Cable Act prohibits redlining of services, and requires operators to disclose to subscribers the kinds of information the cable operator collects and maintains about customers.

The Cable Act permits cities to collect a franchise fee of up to 5 percent of gross revenues. The industry paid $826 million in franchise fees in 1991, up from $200 million in 1984. That's one-fourth of the aid we provide cities through the Community Development Block Grant Program.

The cable industry's "Cable in the Classroom" program began in 1989 and now reaches nearly half of our public school junior and senior high school students with commercial-free educational programming at the industry's expense—$53 million annually. The industry has also developed programs that allow students to earn college and graduate degrees at home from accredited colleges and universities. These programs are available to millions of homes.

PROBLEMS WITH THE CONFERENCE REPORT

The Cable Act has brought some very real benefits to consumers that Congress should recognize. We need to fine tune the law but we should not make changes that go so far as to cripple the industry's ability to keep making the

carry rules to guarantee access to the system at no charge.

Carriage of broadcast signals on a cable system can benefit both parties. Who benefits more will vary from case to case and it's understandable when one party will often expect compensation from the other. However, the combination of must-carry with retransmission consent gives all the leverage in negotiating the relationship to the broadcaster.

Retransmission consent will give broadcasters access to a new revenue stream. It will also weaken their leading competitors, the cable industry. A leading broadcaster has testified that retransimission fees could reach $1 billion or more each year. That works out to $1.50 per month for each cable subscriber.

Cable systems will either have to raise rates in order to pay for retransmission rights or they will have to take those costs out of their existing programming budget. This would reduce the funds available to purchase or invest in programming that is not available from broadcasters. Retranamission consent means that cable will either cost more or offer less. Either choice will make the cable industry less competitive and hurt consumers.

Do we want to pass legislation that will enrich broadcasters at the expense of consumers and the cable industry? Broadcasters already reap large profits through the free use of a public resource—the spectrum—and their public interest obligations as custodians of that resource have fallen significantly over the past decade.

In addition, retransmission consent raises serious copyright and intellectual property questions, as do the program access provisions. Because of these concerns, the cable industry is not alone in strongly opposing the proposal. Unfortunately, we have not paid enough attention to the copyright implications of the legislation. We may well want to revisit current law in this area but we should be more aware of what we are doing when we act in this area.

I believe we need to debate the intellectual property issues. Instead, the sponsors of the legislation prefer to debate the rates and customer services issues that offer firmer ground on which to build support for the legislation. Consequently, the public has not paid much attention to the important issues at stake in the retransmission consent and program access provisions. The special interests that will reap financial rewards if they become law have paid a lot of attention to those provisions however. They know what's at stake and those provisions are the major reason the broadcasters and other wealthy interests are working hard to support the legislation.

CUSTOMER SERVICE PROVISIONS

The legislation would require the FCC to establish customer service rules and grandfather any stronger rules in effect on the date of enactment which exceed the Commission's rules. Cities would be permitted to establish stronger customer service requirements. This would subject the industry to the burden of complying with a wide array of new rules that vary from town to town, just the type of problem that we solved in 1984. In January, I supported an amendment that included similar customer service provisions. However, that amendment would only have permitted State governments, rather than local governments, to establish new standards that exceed those set by the FCC. This would strike a better balance, allowing for more stringent standards to protect consumers without unduly burdening the industry.

RECENT FCC ACTIONS TO PROMOTE COMPETITION

The FCC has taken substantial steps to increase competition since we began the cable debate. These FCC decisions will forever change the competitive structure of the industry. In June, the Commission relaxed its more than two decade old ban on broadcast networks' ownership of cable systems. More recently, on July 16, the FCC permitted telephone companies to offer so-called video dialtone services that will eventually compete directly with cable television. Several other recent changes predate our consideration of S. 12 but have only begun to affect the marketplace. Last year, the FCC tightened its effective competition standard, a move that increases the number of cable systems that are subject to rate regulation by local governments. And the FCC has also encouraged greater head-to-head competition for cable by licensing additional direct broadcast satellite systems and prohibiting cable operators from owning wireless cable systems in the same markets.

Consumers may not feel the benefits of these decisions immediately. But they will bring far-reaching changes in the coming months and years. Senators should take these developments into account when considering cable legislation, particularly the provisions that seek to settle intraindustry competitive disputes.

VIDEO DIALTONE

The Commission's July 16 video dialtone decision significantly expands the ability of telephone companies to deliver video programming to consumers. Video dialtone will allow viewers to receive television programming and some related services from local telephone companies. The phone lines would be used on a common carrier basis, available on equal terms to all parties that wish to offer programming. This step will encourage greater competition for cable as well as the development of new interactive services. For example, telephone companies could allow customers to make selections from a wide variety of programming, giving viewers access to more choices and the ability to watch programs when they want to, not according to a programmer's schedule.

The video dialtone decision does more than allow telephone companies to deliver video programs in competition with the cable industry. It allows them to do so on favorable terms. Telephone companies will be able to deliver video programming without having to obtain a franchise, pay fees to local governments, or comply with the other obligations the Cable Act places on cable systems.

NETWORK/CABLE CROSS-OWNERSHIP

Less than a month before the video dialtone decision, the Commission modified its cross-ownership rules to permit broadcast networks to own cable systems. The FCC adopted this rule in 1970 to protect the cable industry from network domination and promote a competitive marketplace for video programming. Things have changed since 1970 and the FCC decided that permitting some network ownership of cable systems would now work to increase competition within the industry.

The Commission established less restrictive limits on network cable cross-ownership in areas where the network-owned system competes with another system. This step should encourage the development of second cable systems in more cities, a proven path to lower rates, and better service for consumers.

EFFECTIVE COMPETITION STANDARD

Last year, the FCC tightened the so-called effective competition standard that determines if local governments can regulate basic cable rates. The old standard exempted cable systems from regulation if their customers were served by three broadcast television signals. The new FCC rules allow regulation unless a cable system faces competition from six over-the-air broadcast stations or another multichannel provider that is available to 50 percent of the homes in the cable operator's market area and subscribed to by 10 percent of the market area's homes. Under this standard, nearly 61 percent of cable systems, serving 34 percent of cable viewers, do not face effective competition and are subject to rate regulation. I believe we should tighten this standard further and support an amendment in January that would allow regulation of basic rates for any system whose only competition comes from broadcast stations.

OTHER FCC PROCOMPETITION STEPS

Several other recent FCC decisions will also lead to increased competition in providing television programming to viewers. For example, the Commission has prohibited the cross-ownership of cable systems and wireless cable in the same market and licensed additional direct broadcast satellite systems. Both of these actions should promote the development of direct competition for cable.

The full impact of these changes on the video programming marketplace has not yet been felt. Importantly, we should also note that events in the private sector are changing the market-

This bill allows for rate regulation of basic cable service, defined as that tier of programming that the broadcast channels appear on as well as the equipment used for the provision of this service.

It also allows a customer or a local official to bring a complaint to the Federal Communications Commission that the next tier of programming is offered at an unreasonable rate. These provisions are considerably less regulatory than those in the original Senate bill and those bluntly which this Senator supported which would allow rate regulation of the lowest tier of programming to which at least 30 percent of subscribers engage.

Personally, I preferred that because there has already been retiering in order to avoid the potential reregulatory effects of this bill. In the interest of meeting the administration's desires, however, the conferees accepted this lessening of the regulatory burden. I am willing to settle for a less than perfect solution in order to move in the proper direction in this connection.

The conference report also includes the Senate's provision which requires cable systems to deal fairly with local broadcast stations. At the present time, cable systems pay for all of the programming they show except for what people watch the most: local broadcast stations.

Cable companies take these signals free. The conference report allows local stations to negotiate for retransmission consent or carriage. Many stations will negotiate for nonmonetary compensation like channel position or promotional considerations.

In my view, however, whatever the result of those negotiations, this provision will strengthen local television stations so that they can maintain their ability to provide news, sports, weather, other local programming, and network programming in competition with cable systems.

Cable companies say that this will be a costly provision, and this Senator disagrees.

First, the conference report specifically gives the Federal Communications Commission the authority to ensure that retransmission consent does not adversely affect subscribers' rates.

Second, this is the tier of programming subject to rate regulation in areas where there is no effective competition.

Third, the Consumer Federation of America has estimated that this bill may save consumers as much as $6 billion a year based on the 30-percent lower rates which consumers get in that handful of markets in which competition exists at the present time.

In my mind, however, perhaps the most important provisions of this bill are those that encourage competition. The Chairman of the Federal Communications Commission, Al Sikes, testified before the Commerce Committee that in order to foster competition, Congress should eliminate monopoly franchises.

This Senator worked with the FCC and with other Senators and offered a package of amendments during the Commerce Committee markup that will encourage competition during the franchising process. These provisions are included in the conference report and will encourage second and even third cable systems to compete against present monopolies. They encourage competition by forbidding franchise authorities from unreasonably refusing to grant a second franchise, by assuring that adequate time is given to the new franchisee to build a system, and by forbidding a cable system from offering differing prices within a franchise area in order to drive out competition where it exists only to later reraise their rates when their competitor is driven out of business.

I agreed with Chairman Sikes that these were important provisions because out of nearly 11,000 cable systems nationwide, only 53 are in direct competition with another franchise. The rates for these systems are 30 percent lower than in areas with only one franchise and on a perchannel basis are 50 percent lower.

Another important competitive provision which this Senate backed in the Senate bill and Congressman TAUZIN included in the House bill will force cable-affiliated programmers to make their programming available to competitors at reasonable rates. Satellite television viewers, predominantly in rural areas, have suffered far too long from artificially high rates. On the average, the price of programming provided to satellite distributors is four to five times greater in price than that provided on cable systems. This bill will end that practice.

Not only will this mean that rates will decrease for satellite dish subscribers but it will mean that with lower operating costs and with smaller dishes expected in the near future, dishes, as well as wireless technology, will become more competitive in areas already serviced by cable. The access to programming provisions, coupled with recent FCC decisions approving video dial tone, are critically important tools to promote competition. No wonder this is the single provision cable has fought the hardest. Once again, cable fears an end to its monopoly.

This bill also includes other important consumer protection provisions including directing the FCC to establish standards for responding to consumer calls, complaints about outages, bills, and refunds. It also includes a provision, which I authored at the time that the Senate passed the bill in January, that will ensure customer's privacy regarding their bills. Presently, on some cable systems, anyone can access a customer's billing information if they know the customer's telephone number. This bill will ensure customer's privacy by requiring some other personal identification measure, such as a secret password or personal identification number, be given before billing information is released. I also sponsored another consumer protection provision accepted last January that was also included by conferees. This provision will prohibit the billing of customers for services or equipment that they have not affirmatively requested by name. I sponsored this provision because of the many complaints I heard from constituents regarding the marketing of the encore channel. In this instance, customers received a billing insert stating that they would be charged for this new programming unless they called the cable system to cancel it. This provision is meant to be applied more broadly than just to address programming. I am aware of other negative options used such as cable program guides, equipment, and shuffling of services which are also intended to be covered by this provision.

The cable industry has launched a full-fledged campaign to try to mislead the public into thinking that this bill will raise rates. Let's look at what Senator LIEBERMAN and I call cable's fables. First, the cable companies mailed a flyer to all their customers quoting a Department of Commerce study which they know was based substantially on the data they provided to the department. Next they quoted newspapers out of context to make it look like those papers oppose the bill when in fact newspapers such as the New York Times support the conference report. They have orchestrated call-in campaigns to Senators where they coached their customers on what to say. They have spent countless dollars churning out clever ads saying this bill is bad for consumers when the truth is that the largest consumer group in the country, the Consumer Federation of America strongly supports this bill.

Let's not be fooled by cable's fables. Read the bill for yourself. Look who is really for and against this bill and ask yourself who are you going to trust—Hollywood and cable industry, the only two opponents, or the consumer groups, labor organizations, seniors' groups, and our local officials.

I have worked for 4 long years to get to this point. I have done so because I have heard cable customers' complaints week after week, year after year. I have done so because I do not believe that it is right to let an unregulated monopoly continue untouchable and unchallenged. I come to the floor today to urge my colleagues to look beyond the surface of the cable association's rhetoric. Take a look at what this legislation will really do and then ask yourself if you are willing to continue to go along with the status quo or if it is time for a change. You know what the status quo means—rate increases that average three times the inflation rate and little chance for competitors to challenge the cable

In other words, the law would prescribe who these companies can sign a contract with, and what the terms will be. I cannot believe that is really what this Senate wants to do. I praise the President for being willing to veto this piece of legislation based on that very fundamental, sound principle. If you love government, you are for this bill; if you want less government, and you have faith in the people, be against the bill.

Also, there is a feature called retransmission consent, under which broadcast stations will be given the option to either require payment from the cable company for reset of their broadcast signal, or require the cable company to carry their signal for free.

I am sympathetic to the broadcasters' complaint that the cable companies are carrying their signal for free, and they have no recourse under current law. They have my sympathy on that.

If we were talking about just allowing broadcasters to demand payment or prohibit its carriage by a local cable operator, I might be supportive of this provision. I probably would be wholly supportive of it. Unfortunately, that is not the case.

The addition of the must-carry requirement for these broadcast channels that are not important to the cable operators' customer base completely skews the market in favor of the broadcasters. And undoubtedly it will cost the cable subscribers money.

Mr. President, instead of working to the benefit of the cable subscribers, the new regulations and price controls—I reemphasize price controls—in S. 12 will stifle the cable industry's ability to develop, to invest in new technologies and programming. And new technology like fiber optics, fiber optic cables, and digital equipment is precisely what is necessary and what is needed to reduce the capital costs so that cable TV will be affordable and available in rural areas of my State and other States.

Competition in television programming and distribution is the right solution to the problems in the cable industry. Competition exists and is growing. Wireless cable systems, home antennas receiving satellite signals and over-the-air network broadcasts are real and active competitors in the television markets across the country. All we have to do is let technology and the marketplace work, and get the Government out of the way, and this problem is going to take care of itself in a very short time. And it is rapidly moving in that direction.

In addition, technological advances already in the development stage may revolutionize the way Americans receive video, entertainment, and informational services. And the new technology will engender even greater market competition in the video industry.

Mr. President, freedom works. The free market competition is the right way to go. S. 12, in my view, is exactly the wrong direction.

I encourage my colleagues to vote no on this conference report, and support the position the President has taken.

Mr. President, I yield the floor.

EXHIBIT 1

THE WHITE HOUSE,
Washington, September 17, 1992.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MICHEL: I am writing to express my strong opposition to the Conference Report to accompany S. 12 (Cable Television Consumer Protection and Competition Act of 1992), which the House and Senate will consider in the next several days.

This legislation will hurt Americans by imposing a wide array of costly, burdensome, and unnecessary requirements on the cable industry and the government agencies that regulate it. The heavy-handed provisions of the bill will drive up cable industry costs, resulting in higher consumer rates, not rate reductions as promised by the supporters of the bill.

The bill will also restrain continued innovation in the industry, cost the economy jobs, reduce consumer programming choices, and retard the deployment of growth-oriented investments critical to the future of our Nation's communications infrastructure.

My vision for the future of the communications industry is based on the principles of greater competition, entrepreneurship, and less economic regulation. This legislation fails each of these tests and is illustrative of the Congressional mandates and excessive regulations that drag our economy down.

Congress would best serve consumer welfare by promoting vigorous competition, not massive re-regulation.

For these reasons I will veto S. 12 if it is presented to me, and I urge its rejection when the House and Senate consider the Conference Report.

Sincerely,

GEORGE BUSH.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado [Mr. BROWN].

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Thank you, Mr. President.

Mr. President, I rise with a note of regret to raise a concern about the conference report.

I first want to delineate several provisions in this measure that I think are excellent. If the measure were limited to these or perhaps a few others, I think they would have a very positive impact for consumers and for competition, and I would rise in support of this report.

The report has a very good provision, in my view, in repealing or at least limiting the authority of cities to award exclusive franchises. To the extent that existing law gives municipalities and other entities the ability to award exclusive franchises, that is wrong because it eliminates competition. This report moves in the right direction by encouraging the award of multiple franchises.

While there are exceptions, and it is not as clean and as strong as I would like, it does take a step toward competition in that area. I must tell you, frankly, that I think it Congress had had the wisdom in past years to not allow exclusive franchises we would not find the clamor for legislation that we find today. So, in that area, this measure is a step forward.

Mr. President, I also strongly support the must-carry provisions. I think they are essential in small markets, where a lack of access to the cable TV system can effectively eliminate a local broadcaster from competing in that market. My guideline for supporting these improvements is simple. They promote competition. The market does work and will work. It can work.

However, the problems we face today with cable stem from government interference; not a lack of regulation, but the wrong kind of regulation.

Inasmuch as this bill moves forward in eliminating some of those bad provisions, I think it is a plus and merits consideration.

But I reluctantly come to the conclusion that this measure should not pass, in spite of some of its good provisions. I want to share just a couple of them that I think are important.

One, it has been suggested that this measure will lower costs for the consumer. Mr. President, Lawrence Tisch, chairman and CEO of CBS, surely knows what he is talking about in this area. He said the retransmission provision of the proposed legislation could add $800 million to $1 billion a year in increased costs.

That is not a cut in the cost to the consumers; that is an increase. And that is not a small increase; it is a huge increase.

Some very distinguished colleagues in this Chamber have said: Do not worry about that; the bill also contains language that will prevent this increase in costs to the cable industry from increasing the rates to consumers. Mr. President, let us not kid ourselves. Whether you are for this bill or you are against this bill, you cannot add $1 billion to the cost of the industry and not have it passed on to the consumers.

Could you have good intentions? Would you wish it not be passed on? Absolutely; I would grant that to the advocates of this bill. But to come to the American people and tell then you are going to add $1 billion to the cost of the cable system, but that it is not going to get passed on to those who pay the bill, involves a great deal of imagination. It involves a great deal of creativity and rhetoric. But is not accurate.

Mr. President, to suggest that this bill is going to reduce costs for consumers because you have regulation says a lot about the kind of regulation that you are going to have. The bill is not terribly specific on the guidelines that are set up. But presumably you would allow a return on investment that is at least equivalent to what pub-

On the use of a committee to receive and report evidence, I have no doubt but that it is within our power to establish rules for the Senate's proceedings. The Constitution gives the Senate that power. Impeachment rule XI was carefully drafted, and has been carefully employed. We do not delegate the power to decide an impeachment to a committee. Rather, we delegate only the power to receive and report evidence to the Senate.

Moreover, Senators retain under the rule the power to call some or all witnesses before the full Senate. Because the ultimate power to determine if witnesses should be heard in the well of the Senate belongs to the full Senate, we wanted to be absolutely certain, when the Senate met on October 18, 1989, to hear final arguments in Mr. Hasting's case, whether Mr. Hastings then wished the Senate to invoke its power under the rule to have witnesses called before the full Senate.

I will now quote the majority leader's inquiry to me while presiding over the Senate during the impeachment floor proceedings:

Mr. MITCHELL. Mr. President, rule XI provides that the Senate's receipt of evidence reported by the committee is subject to the Senate's right to determine competency, relevancy and materiality. Further, rule XI explicitly provides that nothing in it prevents the Senate from sending for any witness and hearing that witness' testimony in open Senate, or by order of the Senate having the entire trial before the full Senate.

The majority leader then asked:

Will the Presiding Officer advise the Senate whether, following the report of the committee, any motions have been filed by the parties to the impeachment asking that any witnesses be heard in open Senate?

As Mr. Hastings has filed no such motion, I responded to the Senate, in the presence of Mr. Hastings and his counsel, as follows:

The PRESIDENT pro tempore. In response to the majority leader, neither party, following the report of the committee, has moved that any witness be called in open Senate and the Senate may now proceed to hear final arguments on the basis of the record reported by its committee.

135 CONGRESSIONAL RECORD, S13617 (daily edition, October 19, 1989).

Thus, at the critical moment in the Senate's floor proceedings, Mr. Hastings offered no objection to proceeding to final argument on the basis of the record reported by the impeachment trial committee.

I have been advised that this basic point was brought to the attention of Judge Sporkin, but his opinion in no way acknowledges this.

It is my firm conviction that the Senate performed its great responsibilities in both the Hastings and Nixon impeachments with great fidelity to the Constitution, and that the Senate's judgments in these matters merit the respect which I am sure that the Supreme Court, speaking finally for our coordinate judicial branch, will accord to those judgments.

Mr. President, I yield the floor.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM addressed the Chair.

Mr. DANFORTH. Mr. President, may I ask how much time remains for the proponents of the conference report?

The PRESIDING OFFICER. The proponents control 14 minutes; the opponents control 6 minutes.

Mr. METZENBAUM. I ask the Senator from Missouri if he would yield 10 minutes to the Senator from Ohio to speak in support of the bill?

Mr. DANFORTH. Yes, I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM] is recognized for 10 minutes.

Mr. METZENBAUM. Mr. President, I rise in support of the conference report on S. 12, the Cable Television Consumer Protection and Competition Act.

When Congress deregulated the cable industry in 1984, we made a terrible mistake. The 1984 Cable Act was premised on the absurd idea that deregulating local monopolies would lead to lower prices and more competition.

We did so in part because the municipalities of the country came to us and urged us to take away from them the right to regulate cable rates. They were wrong in making the suggestion and we were wrong in accepting their recommendation. The results have been just the opposite: Higher rates, poor customer service, and a strengthening of cable's monopoly power.

This conference report gives the Senate a chance to begin correcting the mistake we made in 1984. The cable industry has been fleecing consumers ever since deregulation took effect 5 years ago. The cable monopolies have grown fat and rich while adopting an arrogant, take-it-or-leave-it attitude toward their customers.

Call any cable company in this country and if you get courteous and cooperative service, you must live in some community that I do not live in because I have cable in three different areas in which I live and you do not get any cooperation whatsoever.

Cable prices have been hiked at a clip which triples the rate of inflation. The Consumer Federation of America estimates that cable consumers are being overcharged by as much as $6 billion annually. An economist for the Department of Justice found that up to 50 percent of cable's revenues represent unfair monopoly profits.

When you cast your vote tomorrow, keep in mind that 99 percent of all Americans have no opportunity to choose among competing cable systems. Think about the millions of Americans living in small towns and rural areas who must subscribe to cable in order to get decent television reception. Think about the many elderly citizens who are confined to their homes and depend upon cable television as their sole source of news and entertainment. And keep in mind the millions of Americans whose rates have risen over 100 percent since we gave the cable monopolies a free hand to raise prices.

The conference report will provide those Americans with some protection against the rate hikes and price-gouging inflicted upon them by the cable monopolies. The bill will promote competition, set tougher customer service standards, and authorize regulation of basic rates in areas where consumers do not have a choice of competing cable program providers.

There are some who say this bill goes too far—that it is too tough on the cable industry. I do not believe this bill goes far enough. The record shows clearly that cable has abused its monopoly power by overcharging consumers and stifling competition. I believe this conference report should have stronger protections for consumers. The conference report is weaker than the version of S. 12 which passed the Senate by a 73-18 margin in January. It is weaker than the cable bill originally introduced last Congress by Senators DANFORTH, INOUYE, and HOLLINGS. And it is weaker than cable legislation which I have introduced.

But while this conference report is not as strong as it should be, it is a definite improvement over the status quo. If you want the cable industry to stop overcharging consumers and raising rates at will, then you should support this conference report. If you want cable companies to start providing their customers with decent service, then you should support this conference report. And if you believe that Congress should encourage and promote competition in cable, then you should support this conference report.

This is a reasonable bill which has broad, bipartisan support. The cable industry is howling about this conference report precisely because it will curb their monopoly power. That is why the industry has launched a deceptive propaganda campaign which distorts the truth about this legislation.

I vented my views on that subject some days ago. Here is a situation where the cable industry is trying to mislead the American people into thinking that a bill that is actually good for them is going to hurt them and is using the dollars that they have milked from the people of this country to buy television ads, urging the American consumer to prevail upon their Senators to vote no when really the proconsumer vote is a vote "yes."

Indeed, the cable industry's effort to mislead the public and intimidate the Congress is matched only by one other organization I know—the National Rifle Association. The cable industry has bombarded its customers with ads and fliers which make widely exagger-

be willing to pay to watch television? After all, we had the best television in the world, and we could receive it for free. Yet, it is clear that the public sees something special in cable television—over 60 percent of American homes now subscribe to cable, and people are willing to pay a significant amount to receive it.

This tremendous growth in the cable industry has been valuable. Most cable subscribers have access to 36 channels, and this amount is steadily increasing. Many systems already offer twice as many channels as before the enactment of the Cable Communications Policy Act of 1984, the 1984 act. This increase in capacity has been accompanied by a great increase in the programming that is offered. And more is on the horizon.

This growth also has produced significant problems, however, and these problems cannot go unnoticed. Cable is no longer an optional luxury; it has become an integral part of the communications network and will become even more integrated in the future as information and entertainment programming are transmitted via fiber optic cables. In recent years, the cable industry has taken advantage of this privileged position as the sole distributor of America's programming. The Commerce Committee has been presented with mountains of evidence of unreasonable rate increases, customer service problems, and various anticompetitive market practices. I know that certain of these problems are the result of bad actors, but nonetheless, we cannot ignore these problems.

The cable industry is no longer a second-class video distributor that only retransmits broadcast programming. It now serves more than half of American homes, and that amount is increasing. Furthermore, it has de facto exclusive franchises. It appears well on its way to becoming the dominant video distributor, and we must be attentive to the problems that monopolies create.

For instance, in my own State of South Carolina, there is a situation involving two communities next door to one another, served by the same cable company, where the citizens of one community are paying more for much less service than those in the other community. In Greer, SC, Cencom Cable provides 36 channels of programming for $23.95, while in Mauldin, SC, customers pay $25.95 for only 21 channels of programming. This problem is not limited to one community. A recent constituent, who in the last 3 years has lived in two different communities in the Myrtle Beach area, informed me that in one community she was charged $15 per month for 45 channels, and in another nearby community she was charged $20 per month for 14 channels. She has a right to be outraged and frustrated. Everyone is frustrated, but there is little that the local authorities can do about these discriminatory practices once the franchises are awarded. We must ensure that these examples of abuse can be corrected.

When the cable debate first began 4 years ago, I was skeptical of the need for new legislation. The 1984 act seemed to have succeeded in achieving many of its goals. However, I have become convinced that there is a need to adjust the environment in which cable operates. S. 12 responds to the legitimate needs of consumers for lower and more reasonable rates, better customer service, and the need for greater competition. S. 12 does not overturn the 1984 act; it is a reasonable bill intended to address legitimate concerns about the provision of cable service.

Last Congress, under the leadership of Senator INOUYE, the chairman of the Communications Subcommittee, the Commerce Committee began to examine what should be done to address abuses by the cable industry and the concerns raised by consumers. The committee carefully and deliberately compiled an extensive record through 13 days of hearings and numerous meetings. The committee then drafted legislation that represented a true consensus of the committee's members. In fact, that legislation was reported by the committee by a vote of 19 to 1. Senator DANFORTH introduced a similar bill again in January 1991, on the first day that bills were allowed to be introduced in the 102d Congress. Under the leadership of Senator INOUYE, this bill moved through the committee in impressive fashion by a vote of 16 to 3.

When S. 12 came before the full Senate for a vote earlier this year, it passed by an overwhelming vote of 73 to 18. The House vote on this bill was similar—the bill passed by a vote of 340 to 73. These strong votes occurred despite the strong opposition of the cable industry, because consumers and competitors were outraged at the practices of their cable companies.

The cable industry claims that consumers are no longer complaining of poor service and high rates. However, everywhere I travel in South Carolina, I hear complaints about cable's treatment of its customers, complaints that the cable industry is concerned about payment first and the customer last. In 1990 alone, cable rates across the country rose an average of 13.1 percent, more than twice the rate of inflation.

Let me give you some examples: In Bennettsville, the cable operator charged $7 for basic cable in 1986; in 1991 it charged $16.95, an increase of 142 percent for a similar service. In Charleston, cable rates were $10.45 for 35 channels; in 1992, the charge is $22 for 29 channels, an increase of 111 percent to receive fewer channels. In Spartanburg, customers were charged $12.93 for 30 channels in 1986; in 1991 they are charged $27.45 for the same number of channels, an increase of 112 percent.

Last year, in response to congressional action on cable legislation, the cable industry instituted voluntary customer service standards. Voluntary standards are nice, but they are only voluntary and cannot be relied upon to protect the consumer. So far these standards do not seem to be working. One of my constitutents wrote to tell me that he notified the cable company that he wanted to terminate his service because of the constant rate increases. The company did not respond for 6 months. He finally cut the cable himself because he was afraid that he would be charged with stealing the cable operator's programming. So much for voluntary service standards.

S. 12 requires that the FCC adopt minimum customer service standards that will apply to all cable operators. The need for such standards is further evidenced by the activities of one cable operator in signing up customers for a new service, the infamous Encore channel, without their knowledge, and then simply sending a bill to the customers for the service they did not order in the first place. This kind of behavior cries out for correction.

It has been argued that S. 12 will allow cities to micromanage cable marketing and practices. This is not valid. S. 12 requires the FCC to adopt national standards for regulation of basic cable rates and permits the cities to regulate basic rates only within the national guidelines. Moreover, the conference report permits the FCC, but not the cities, to regulate rates for tiers of programming other than the basic tier only if a complaint is filed that shows that a rate for that upper tier is unreasonable. Moreover, there is no regulation of programming services offered on a per channel basis, such as HBO and Showtime.

Turning to the access to programming provisions of this legislation, the conference report on S. 12 includes a number of measures designed to ensure that certain cable programmers do not discriminate in their offering of programming. While the conference report includes much of the language included in the House bill, the effect of these provisions is almost identical to the provisions contained in the bill that passed the Senate. I must say that I had some reservations about these provisions. I recognize that cable operators created many of the program services that are available today when no one else would. However, I also recognize that there are times when steps must be taken to help promote competition in the marketplace.

For example, in the late 1950's, cable operators were given the right to carry broadcast stations for free, in part, to help stimulate competition to broadcast stations. In the 1970's, in another attempt to stimulate competition, the FCC adopted the financial interest and syndication rules, which limit the ability of the networks to own and control programming. In the 1990's, we find that competition to cable is stifled by the inability of competitors to obtain programming. Two communities in South Carolina have recently faced this very problem. In those commu-

cerns were not resolved in the conference report on this legislation. While I recognize that there have been some problems with basic cable rate increases, and services in some areas have been poor, I disagree with the assumption that reregulation is the solution.

Reregulating the cable industry will only serve as a short-term fix, and it won't benefit the consumer in the long term. In fact, consumers aren't even assured of lower cable rates. There is sound evidence that S. 12 will increase cable rates because the legislation's mandates will increase cable companies' operating costs. It would not be surprising if the consumer ended up paying the tab. Consumers will also be paying for the Government to implement this legislation. The conference report will increase the Government's regulatory costs by tens of millions of dollars.

One last point I would like to make is that the cable industry also employs thousands of people. Overregulation of this industry will stifle growth and put many of those jobs at risk.

Cable has opened the world to many rural communities, and with competition and new technologies such as DBS, more information and programming will be available to our rural communities—but only if the Federal Government avoids imposing burdensome regulations on the industry.

Mr. President, I don't support unnecessary Government regulation of private industry. Therefore, I don't support S. 12. The best solution to this problem would be to provide consumers with a choice of distributors—local telephone companies, direct broadcast satellite, or another cable company.

Mr. WALLOP. Mr. President, I rise to oppose the conference report of the so-called Cable Television Consumer Protection Act of 1991, a bill that would reregulate the cable television industry. It is an example of effort we see all the time around here to sell bad ideas with sexy titles.

The current bill is anticonsumer and anticompetition. It would force monthly cable rates to increase for each of America's 60 million cable subscribers. Programming choices would be decreased. The development and use of new technologies in nonbroadcast industries would be stifled. Regulatory burdens would be further increased, and the Federal Government would obtain another self-imposed means to supersede a healthy free-market system. Excessive Government intervention is not the answer. Even the Washington Post agrees. This cable bill conference report goes too far and should be defeated.

There have been some legitimate concerns involving cable rate increases and poor customer service in pocketed areas. The original bill was conceived with good, consumer-oriented intentions. However, months of lobbying by special interests standing to gain the most from this bill has yielded language attempting to resolve intraindustry disputes at the unnecessary expense of consumers and taxpayers.

We now have an unacceptable bill which promotes special interests over consumer interests. For example, the conference report contains a buy-through prohibition. Cable operators would be required to permit cable subscribers to obtain premium services such as HBO or Showtime without having to buy expanded tiers of service. Cable operators would be forced to spend billions to install addressable scrambling technology without regard to subscriber demands. This expensive option is neither appropriate nor fair. The Federal Government is attempting to place itself in the awkward position of micromanaging the marketing of television services.

In addition to direct costs, excessive Government controls of cable prices would fence in current and potential developments, uses, and exports of new technologies. These technologies include: Fiber optics; microwave TV; satellite broadcasts; and digital televisions interfaced with telephones and computers. It makes absolutely no sense for Congress to damage a sound American industry, harm consumers in both urban and rural areas, and suppress technological innovations.

I agree with consumers in Wyoming and throughout our Nation who understand the consequences of overzealous Government controls. Competition, not excessive reregulation, creates the greatest choices at the fairest prices for consumers. Competition, not regulation, creates essential jobs for Americans. Regulations like those proposed in the Cable Television Consumer Protection Act conference report do not provide for competition and do not favor consumer interests.

This bill goes too far and should be defeated. I ask unanimous consent that the Saturday, September 19, Washington Post editorial "Uncle Sam in Charge of Cable" be entered into the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 19, 1992]

UNCLE SAM IN CHARGE OF CABLE

The cable legislation approved by the House and now headed for a Senate vote calls for the federal government to step in and reregulate the industry from rates to program packaging. But this approach assumes that cable, now supplied mostly by monopolies, is a utility as necessary as electricity or telephone service. In fact, cable is a consumer option in what should become a more competitive market. This particular bill would give government a role in cable that consumers may not find so welcome over the long haul.

Forget the cable industry ads predicting that passage of the bill would send everybody's cable rates through the ceiling. Forget as well the arguments of supporters—including over-the-air broadcasters, who like a provision that would force cable operators to negotiate with them before retransmitting their signals—that the bill would force price cuts of up to 30 percent. Both sides—and we note here that The Washington Post Co. owns cable systems as well as broadcast television stations—have resorted to heavy lobbying. So has the motion picture industry, which opposes the bill because Hollywood wouldn't get any cut of the royalties that broadcasters could seek from cable operators.

Under the measure, the government would set "reasonable" rates for what it would define as "basic" programming, control prices for installation and equipment, require efficient customer service and force cable operators to equip all subscribers for channel selections that now are sold as packages of channels. The result of all these requirements is not more competition; it's more likely to be cost-cutting by eliminating cable programming or even entire channels.

The effort to control gouging by cable operators should focus on increasing competition, not on heavy reregulation. Until competitors do materialize, some determination of a reasonable rate of return for certain basic cable service is a legitimate legislative pursuit next year. This bill goes overboard.

The PRESIDING OFFICER. All time for consideration of S. 12 under the previous order has now expired.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

The PRESIDING OFFICER. The Senate will now proceed to consideration of H.R. 5504, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The part of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I
MILITARY PERSONNEL
MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; [$23,153,900,000] *$23,236,700,000*.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent

No. 4, options for the United Kingdom to meet its strategical requirements in a situation where the United States procurement of Trident II missiles is terminated earlier than originally planned.

Great Britain buys this missile also. We are asking them to study what the impact would be if the study recommended that the United States discontinue the production of this missile.

And there are a couple of other things in this. One, the reasons why strategic missile flight testing rates are substantially different for the Navy and Air Force along with recommendations for uniform testing rates.

Mr. President, this study is to be conducted at the behest of the Secretary to report back to the Armed Services Committees of the two Houses, as I say in classified and unclassified reports.

That study is essentially the very things I have talked about here this morning. I think it is an extremely important issue for the Congress to address, Mr. President. And it goes right to the heart not only of the START Agreement and our compliance with it, but it also goes right to the heart of the deficit and what we are going to do about it.

I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. If the Senator will yield for a question, I note that in the Senator's amendment, he has the date of May 1, and I believe that a study of this magnitude may require a bit more time than May 1, 1993.

Mr. BUMPERS. Let me say that the time is only important to me if we get it before the authorization or appropriations process starts next year, so that we can address it then. And I have no objection to that. I wanted to get it as soon as we could, so committees could hold hearings on it.

But if the Senator would like, let me suggest this. Let me suggest that we leave the language in, consult with the Pentagon, see what they think would be a suitable date, sometime before the appropriations process, which would give us time at least to look over their report, and we will change it in conference, and I will give you my word then on the floor that I will agree to some change.

Mr. INOUYE. With that assurance, Mr. President, I am prepared to accept the amendment.

Mr. STEVENS. Mr. President, I will accept the amendment.

The PRESIDING OFFICER. The question occurs on the amendment.

The amendment (No. 3124) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, there is something I have never done before on the floor of the Senate as far as personal staff is concerned, but I want to publicly thank Bruce MacDonald of my staff, who has worked tirelessly on this amendment for about 8 months and has talked to everybody in the United States from the production of the Trident II missile to the appropriate people in the START Agreement, the Navy, everybody. It has been a real monumental task for him. He has come up with unbelievable numbers and other data that has been very helpful to me, and I think to the Senate.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

ADDITIONAL COSPONSOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that I be added as a cosponsor to Senator LEAHY's amendment No. 3117.

The PRESIDING OFFICER. Without objection, it is so ordered.

The pending business is the Helms amendment to the committee amendment.

Mr. WIRTH. Mr. President, I ask unanimous consent to address the Senate for 5 minutes as in morning business for the purpose of introducing legislation.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I would like to make certain that the previous order will be placed into effect following Senator WIRTH's statement.

The PRESIDING OFFICER. That would be the regular order.

The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

There being no objection, the Senate, at 12:38 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

S. 12

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report to S. 12.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 14, 1992.)

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FOWLER. Mr. President, this effort to address the concerns of cable consumers and to protect them from mistreatment and unfair pricing at the hands of cable monopolies has been in the works for several years. I had just begun serving as a senator when concerns about pricing began to surface, and I know I have read many a letter from constituents on this subject since then.

I also know that the Senate has responded to these concerns. The Commerce Committee has held hearings, and various pieces of legislation have been drafted to provide greater consumer protection, and a more level playing field among various technologies that transmit programming.

I also believe that this attention by Congress has had a very real impact on the cable industry. It has, for example, established its own industrywide guidelines for improving consumer service—where some real and very aggravating problems existed. Local franchises were forced to respond to consumer discontent translated into congressional action.

Perhaps even more importantly, we recently saw a significant change in the regulatory climate for cable operators. On October 25 of last year, the FCC adopted a new definition of effective competition—which could effectively reregulate up to a third of the cable industry. Since less than a year has passed since the change, we don't know the full impact—but we do know that there has been plenty of pressure on cable to act more like a service industry and less like a monopoly.

The conference report on S. 12, the Cable Television Consumer Protection and Competition Act of 1992, is the latest byproduct of these efforts to prevent abuses in the industry. In January, most of us voted in favor of S. 12, hoping that in the end, we would be able to produce regulation that would effectively address the problems of cable subscriber rates and customer service.

The commitment by him and by Senators INOUYE, DANFORTH, and PACKWOOD on this issue has been the key to this beneficial outcome.

Mr. HEFLIN. Mr. President, for the past several years, I have heard many complaints from consumers about the rate increases imposed by their cable companies. There have also been a number of complaints about customer service. In most areas, cable companies operate as a monopoly, with no competing multichannel distributor in the area and effectively, with no competition. In my State of Alabama, for example, there are only a very few areas where there are competing cable companies. This bill, S. 12, is designed to bring regulation to a monopoly situation in order to control rates, improve customer service and promote effective competition. There are some cable companies who have not abused this monopolistic authority, but there are some that have.

As a general philosophy, I believe that all monopolies need regulation. That is why power companies that sell electricity and telephone companies must file an application for any increase in rates with a State regulatory agency which then determines the rates. Any monopoly is a potential danger to consumers unless it is regulated. I apply this same philosophy to the cable situation.

Since most cable operators have no other cable company competing with them in their area, they should bear the burden of proving that any increase in charges is merited. In that situation, there should also be a regulatory body, the Federal Communications Commission, investigating whether or not there is justification for such increases.

During the course of congressional consideration of this bill, there has been a lot of misinformation distributed. However, when the actual terms of this legislation are carefully considered, one sees that this bill regulates rates only where competition does not already exist; where competition exists, there is no rate regulation. The bill also directs the establishment of minimum customer service standards as well as standards to increase compatibility between television sets, VCR's, and cable systems. In implementing these and other regulatory provisions of the bill, the Federal Communications Commission is instructed to ensure that rate increases do not result.

The bill further gives the FCC and cable operators new authority to restrict indecency and obscenity on cable. This is much-needed authority.

Mr. President, the cable industry currently operates as a monopoly in virtually every area of our country. In the end, I believe that this bill will protect consumers from potential abuses by some monopolistic powers and spur competition to eliminate the existence of a monopoly in this vitally important information and entertainment service industry.

Mr. SPECTER. Mr. President, after extensive consideration and discussions with both sides on this complex issue, I am voting in favor of the conference report on the cable bill with substantial reluctance. I vote for the report because of the fundamental principle that at least some regulation is warranted in any industry which has a monopoly or virtual monopoly on any given product or service although cable was not so regulated in its early days.

I supported the Packwood amendment in the Senate which provided for less regulation in order to provide leverage in conference for lesser regulation in the final bill, but unfortunately, that did not happen.

In supporting this conference report, I am also mindful of the fact that the cable industry defeated legislation in the final days of the 101st Congress in 1990, which, in retrospect, would have been much better from the cable industry's point of view.

I have even rethought this reluctant vote in the light of a television commercial which I saw in Pennsylvania on Sunday on behalf of the proponents of the bill. Without any reason, explanation or substantive argument, the commercial simply called upon Pennsylvanians to urge me to stay with my earlier vote in favor of the bill and then asked the viewers to call my office with the telephone number given.

No one has more respect for the first amendment provisions of freedom of speech and the right to petition elected representatives than I. A citizen has every right to argue in favor of his/her cause and urge others to support his/her position with elected officials. However, I question advertising without a reason which borders on, if it does not actually cross the line of, harassment. I resist the temptation to alter my fragile conclusion on this basis, noting the advertising barrage on the other side.

Because of the problems in the pending legislation, it is my view that Congress should again address this entire subject early in the next Congress. Without discussing the many provisions of the bill which concern me, I will note one provision of importance relating to the dual benefits given to the broadcasters on must-carry and the right to negotiate for compensation.

Several years ago, broadcasters urged me to support a must-carry provision. Later, broadcasters urged me to support a statutory provision which accorded them the right to compensation. It seems to me that the broadcasters can legitimately take the position that they want one or the other provision, but not both.

In a free market, it is reasonable that neither party should give up a property right without a bargained consent from the other side. The broadcasters have a property right in a signal and the cable transmitter has a property right in the use of its system for transmission. Accordingly, it would be reasonable that any arrangement should be subject to mutual consent with whatever compensation, if any, is agreed upon.

As a matter of public policy, it would be reasonable to establish must-carry requirements so that cable viewers, especially in remote areas, would get the signals of network broadcasters.

However, I question legislation which gives broadcasters the right to insist on must-carry and at the same time have the right not to allow such transmission if they do not get adequate compensation. This is only one of many provisions which, I think, should be revisited early in the 103d Congress.

During the past month, I have received numerous requests for meetings, mostly from the cable industry, all of which I have honored. Had the cable industry been as diligent early on or pressed issues for floor votes, which could have been easily done in the Senate, the result might have been different on key provisions such as the must-carry compensation issue or even the entire bill.

At bottom, I conclude that this bill is better than no bill at all, but many issues should be revisited by Congress early next year.

Mr. BRADLEY. Mr. President, I rise today in support of the conference report on the cable bill. I believe it promotes competition and protects consumers from anticompetitive activity.

Mr. President, the vast majority of Americans have no power of choice as to their cable provider. Of the 11,000 cable systems in America, less than 0.5 percent compete with another cable system in the geographic area covered by their franchise. Where competing systems have emerged in communities, they have often been merged with existing systems. The benefits of cable television are so great that they should be available to as many people as possible But the absence of competition within the cable industry makes this virtually impossible.

In 1984, Congress encouraged the development of cable by restricting local government's ability to regulate basic rates. The 1984 Cable Communications Policy Act deregulated rates for about 97 percent of all cable systems and actions by the FCC to implement the act further freed the industry.

While deregulation encouraged the growth responsible for many of the positive developments I have discussed, it also allowed the cable companies to raise their rates. According to a 1991 GAO study, monthly rates for the most popular basic cable service increased by 61 percent from January 1987, when deregulation took effect, to April 1991, from an average per subscriber of $11.71 to $18.84. This rate of growth is three times that of inflation.

In my home State of New Jersey, Mr. President, cable rates have increased 70 percent since deregulation. In the city of Newark, rates have increased 130 percent. We all agree that cable has

While there are procompetition and proconsumer issues that have been ignored by the cable association in their efforts to derail this legislation, a couple of issues have been exploited by them, particularly the issue of retransmission consent.

Briefly, retransmission consent is a provision which allows local broadcast stations to negotiate with cable operators for the right to retransmit the broadcasters' signals. Cable operators currently retransmit broadcast signals for free. Broadcasters who elect the retransmission consent option have the opportunity to negotiate for some form of compensation for the cable operator's use of their signals. Cable competitors do not presently enjoy the benefit of exemption from retransmission consent provisions. The inclusion of retransmission consent in this legislation is merely an attempt to even out the playing field.

I have heard from hundreds of constituents, perhaps more than a thousand, who have expressed outrage at the retransmission consent provision of this legislation. The reason I have heard from so many North Carolinians is that the bill stuffers employed by the cable association suggests that: First, this provision will result in a billion dollar bonanza for the networks; and second, this provision will make cable bills go up from $28 to $51.

I just want to quote from a letter the chairman of the Senate Commerce Committee sent to the New York Times, which by the way supports this legislation:

> It is flatly wrong to characterize the retransmission consent provision in the cable bill as "threatening subscribers with large rate hikes or diminished offerings. The bill expressly states that the Federal Communications Commission must consider the impact of retransmission consent on the rates for basic service and shall ensure that the regulations prescribed under this bill do not conflict with the Commission's obligations to ensure that such rates are reasonable. . . . Thus, it would be a direct violation of the statute for the FCC to permit retransmission consent to result in large rate hikes.

Senator HOLLINGS goes on to write that this bill will ensure that "cable rates are reasonable and stop the endless rate hikes that many communities have faced and will continue to face." The Senator concludes his letter by agreeing with the basic premise of the New York Times editorial in support of the cable bill. He states:

> As you note in your editorial, the cable industry's assertions that this bill, and specifically the retransmission consent provision, will result in rate increases are nothing more than scare tactics designed to mislead consumers.

I am not here today to suggest that this legislation is perfect. Instead, I want to make clear to a number of interested and concerned consumers in North Carolina the intent of this legislation and why it is so important to cable consumers. I also think it important to clear up any confusion surrounding the misleading cable association lobbying campaign. Too often, the facts surrounding this legislation have been ignored or twisted. In taking a close look at this legislation; in meeting with broadcasters and cable operators from my home State, and in listening to the frustrations and concerns of a large number of cable consumers in my State about rate increases and inadequate service, I decided to support both S. 12 when the Senate considered it earlier this year and the conference report before us today. It is clear to me that if we fail to pass this legislation, we will continue to see exorbitant rate increases.

I urge my colleagues to pass this conference report and provide some much needed relief to cable consumers.

I thank the Chair and yield the floor.

Mr. HELMS. Mr. President, I oppose this conference report on the cable legislation because it will impose costly, new regulation on the cable industry. In so doing, it will reach into each subscriber's pocket twice: First, the monthly cable rates are likely to increase; and second, the Government will be spending more tax dollars to pay the bureaucrats to do the regulating—and of course, all taxpayers will be paying for that, too.

Mr. President, what is needed is more competition, not more stifling regulation.

Here's how this legislation will work: First, the cable bill contains a provision called retransmission consent that will require cable companies to pay ABC, CBS, NBC, and the other television networks for carrying their channels. For example, if you watch NBC on regular television it is free, but if you watch NBC on cable this legislation will force cable companies to pay for it, and this new charge will obviously be passed along to cable subscribers.

Mr. President, I was in a management capacity with a television station in Raleigh before my election to the Senate in 1972. Back then, television stations were eager for cable companies to carry their broadcasts. It gave us additional viewers, which helped us with our advertising revenue. It never occurred to any TV station to try to charge the cable companies.

Mr. President, this cable legislation requires cable rates to be regulated by the Federal Government—which the Government itself estimates will cost the taxpayers an additional $100 million a year. The local city councils can also get into the act of regulating rates, which adds another layer of bureaucracy.

Furthermore, the legislation requires cable companies to install so-called addressable systems in all homes, so that subscribers can get pay-per-view type programs. It is estimated that this technology could cost $5.8 billion.

Mr. President, instead of more regulation and more Federal spending, Congress should promote competition. As any student of the free enterprise system knows, competition is the most effective way to assure the best service for the lowest price.

Mr. President, this legislation is not in the best interest of America—nor of cable subcribers.

Mr. WELLSTONE. Mr. President, on January 31, 1992, the Senate passed S. 12, the Cable Television Consumer Protection Act. This measure would allow State and local governments once again to regulate cable television rates in certain circumstances.

Since deregulation of the cable industry in 1984, cable television rates have skyrocketed. While some areas have seen an expansion of cable services, others have seen customer service deteriorate. I believe that the main reason for these problems is that cable television is an unregulated monopoly. The industry quite simply does not face the usual competitive pressure to upgrade services and keep rates down.

Until there are multichannel alternatives to cable in the television marketplace, there is a strong need for greater regulation of the cable industry. But because of the diverse localized nature of the industry, State and local governments—not the Federal Government—are best suited to regulate cable operators.

For these reasons, I generally favor S. 12 as it was originally introduced. During consideration of this legislation by the Senate Commerce Committee, amendments were added which addressed other issues, including a provision which would authorize cable companies to negotiate with television stations regarding the terms for carrying their signals—so-called retransmission consent authority. Because I was concerned that this amendment had the potential to increase consumer costs and reduce service, I raised these issues during the Senate floor debate on this bill in January.

In response to my concerns, the chairman of the Senate Commerce Committee's Subcommittee on Communications supported an amendment which will require the Federal Communications Commission [FCC] to adopt regulations to minimize any rate increase caused by the retransmission consent provisions of the legislation. Further, the distinguished chairman of the subcommittee included a statement in the RECORD of the Senate's consideration of the bill which expresses the intent of the Senate to maintain local service at its current level. Moreover, the committee's legal counsel has stated that existing law provides the FCC with both the direction and the authority to ensure that the retransmission consent provision will not result in a loss of local TV service.

I had been prepared to offer an amendment mandating a much stronger provision on these two points. However, the actions of the chairman of the subcommittee made it unnecessary to press further. Representatives of the Consumer Federation of America

participate in the cable conference. I am committed to reforming the copyright compulsory license to ensure, at the very least, that the creators of the creative programming are given an opportunity to operate on a playing field that is level with cable operators and broadcasters.

Mr. DURENBERGER. Mr. President, I rise to express my support for S. 12 and to urge my colleagues to support this legislation.

Like many of my colleagues, I found this far from an easy decision to make. I have never been a proponent of widespread regulation. In fact, I voted for the repeal of cable regulation in 1984. However, upon examining the state of the cable industry since deregulation, I have found that cable rates have skyrocketed, increasing at three times the rate of inflation, while there has been a concurrent plunge in the quality of service.

Mr. President, this bill will not stifle competition as the cable companies have suggested because currently, there is no competition in 97 percent of the market. In the areas of the country where there is true competition in the cable industry, the rates are 30 percent of those in the monopolistic markets. Cable operators argue that they have substantially increased the scope of options available to their subscribers; in fact, they have had a substantial increase only in price.

Most of the innovation in the cable industry has come in the form of more pay channels or pay-per-view choices, while at the same time the basic rates have exhibited exponential increases. The shift toward pay-per-view maintains a cable monopoly over selected programming even in the face of competition.

In analyzing the nature of the cable television market, I have tried to determine if there exists a viable solution to the problems in the industry that could be addressed through market forces. My determination is that there are sufficient impediments to an effective market place to warrant the adoption of S. 12.

The truth is that cable operators benefitted from the boost which came with deregulation back in 1986, just as Congress intended. Cable access improved, programming increased 50 percent, and market share increased.

But Mr. President, the providers of cable service consolidated their operations through leveraged buyouts, accessibility to programming for competitors was greatly reduced, and rates increased well beyond the rates of inflation. While deregulation has achieved the goal of market expansion, it has unfortunately created a monopolistic rather than dynamic market.

Mr. President, I believe that business as usual will not achieve the goals of fair rates for consumers and a strong and competitive market for cable operators and programmers. In a vibrant market, businesses do not ignore consumer preferences with impunity. Without S. 12, rates will continue to go up while service declines; the power of the largest cable operators will continue to increase, and the barriers to entry of competitors will only grow higher and stronger.

The cable industry currently enjoys the status of an unregulated monopoly and takes advantage of consumers who have no choice but to accept the rising rates and deteriorating quality of service. Many of our constituents have complained that the cable operators are wholly unresponsive to consumer input. Currently, cable operators are in a position to ignore requests for services and complaints about customer service due to the complete lack of alternatives available to the customer.

This bill is vital in the effort to address the problems inherent in an unregulated monopolistic situation. Customers have absolutely no choice and no voice in their frustrating dealings with cable.

The only alternative available to the majority of cable customers is to simply not subscribe to cable at all. This is not a viable alternative, particularly in those rural areas where the only access one has to local broadcast stations is through subscription to cable.

When cable was in its infancy, it was granted the authority to retransmit local broadcasts without permission or compensation from the broadcasters. That was as it should have been when cable essentially provided an antenna service for those who were not able to receive broadcast signals by conventional means. The situation, however, has changed.

After regulation ceased, cable operators became active players in all aspects of broadcasting, and are now direct competitors with broadcasters. They compete for advertising revenues, present alternative programming, and are a potent force in negotiating for lucrative programming such as major sports broadcasts.

Currently, cable's congressional mandate to carry programming purchased and produced at the expense of over-the-air broadcasters gives cable operators a significant advantage over broadcasters. While the availability of network programming, local programming, and public television on cable systems is a significant selling point for cable operators, broadcasters receive no reciprocal benefit from cable operators. In effect, broadcasters subsidize a portion of cable programming; for cable operators, retransmission is a bonus, not a burden.

The retransmission consent portion of S. 12 will, in my judgment, ensure that FCC licensed broadcasters will not be hampered by the obligation to provide programming for their competitors in the advertising market. Under the 1934 Communications Act, broadcasters are not allowed to pick up other signals without consent. Retransmission consent would guarantee that cable operators should abide by the same rules.

Similarly, the must-carry regulation will benefit both local broadcasters and the communities which they serve by assuring that local signals are available through the local cable system. The combination of these two provisions will guarantee that broadcasters can effectively fulfill the purpose for which they were granted a license.

Neither one of these provisions would necessarily require cable subscribers to pay for local broadcast television.

Although my inclination is to look at regulation with a skeptical eye, the provisions of S. 12 represent a restrained approach. First, it prevents a patchwork of wild regulation by directing the FCC to establish a uniform standard under which local authorities can request to have regulatory authority. Second, regulation is only applicable to the basic tier of service and does not cover premium channels or relationships with programmers.

Third, cable operators are afforded rights of appeal to the FCC. Finally, despite the arguments of its detractors, this bill is not an example of onerous regulation and governmental interference. The regulation embodied in S. 12 is only applicable to those areas where effective competition does not exist and will be phased out upon the realization of such competition.

After long deliberation, Mr. President, I have determined that S. 12 is the best way to ensure that cable rates reflect market forces rather than indicating monopolistic prerogative. Implementation of the provisions of S. 12 are necessary to assure that cable rates and services are tied to positive market forces resulting in a discernible improvement in service, programming, and technology.

Mr. DODD. Mr. President I rise in support of this legislation just as I did in January of this year. The time for cable television reform has come, and I for one welcome its arrival.

The facts surrounding this matter have not changed since this body first debated this issue. The cable television industry maintains a virtual monopoly on the rates and services it provides to the American consumer. And as I have noted before, those monopolies hold a 99 percent noncompetitive advantage in most markets.

What that 99 percent market advantage means to the consumers in my home State of Connecticut is really quite simple—increased rates in the city of Hartford alone, cable television rates have risen 81 percent in the past 5 years. In Danbury the rates have risen 65 percent, and in Litchfield, the rates have soared an amazing 179 percent.

Nationwide, cable television rates have risen three items faster than the rate of inflation, and complaints of service and support are mounting daily. Clearly, industry reform is necessary.

Mr. President, this legislation has been one of the most actively lobbied issues to come before the Congress.

his record in Arkansas and his public statements, is no cable coddler the way George Bush is. Bush has threatened to veto virtually whatever cable legislation Congress sends him.

One NCTA spokeswoman claims the bill was toughened up "to embarrass President Bush in an election year," since a veto could be expected to lower his popularity even further. Will Bush follow through on the veto threat? "I'm not sure whether he's going to be that stupid," says Schwartzman. "But the leadership is certainly relishing the prospect of plopping this thing on his desk within the next couple of weeks."

You might think that if this year's cable bill were defeated, next year's version would be even tougher, especially if the Democrats win big, and that cable lobbyists would swallow hard and accept S. 12. And yet they are not only fighting it, but fighting it dirty.

One missive from the folks at NCTA warns that if those "burdensome must-carry obligations" are reimposed, then "as a result, some cable networks (such as C-SPAN and CNN) might have to be dropped."

Notice they don't threaten us with the loss of, say, the Nashville Network or the Comedy Channel or Ted Turner's imminent all-cartoon network. They don't threaten to drop plans for the forthcoming Sci-Fi Channel, which will recycle old network reruns like "Battlestar Galactica" and "Dark Shadows."

Oh no—somehow space would be found for these precious treasures. But C-SPAN and CNN, the two cable networks of most benefit to the public interest, they might just have to be dropped. This isn't just a threat; it's almost blackmail.

And in reality, systems that tried dropping CNN and C-SPAN would be courting public relations disaster as well as widespread subscriber revolt.

The cable lobby has been accused of playing fast and loose with other facts and figures. In August, House members received a letter from a Commerce Department official claiming the reregulation of cable could end up costing as much as $2.81 billion a year, according to seemingly independent studies. In fact, as was later revealed, virtually all the data in the studies were supplied by the NCTA.

"It simply establishes further what we already know," sighs Schwartzman. "Cable is a national monopoly with both the ability and a demonstrated history of abusing it. Any tactic to benefit their cause is okay with them, and the public be damned."

Despite the feverish advertising campaign and all the frenzied lobbying, the cable bill is expected to pass. Whether it does or not, the whole episode can be looked upon as one more chapter in a continuing, perhaps never-ending, saga: Cable vs. the American people. It would be nice if the good guys won one for a change.

Ms. MIKULSKI. Mr. President, I rise today in strong support of S. 12, the Cable Television Consumer Protection Act. People in Maryland and across America are paying too much for cable, and it is about time the Congress did something about it.

Passing this bill will take some important steps toward lower cable TV rates and better service. That is why I cosponsored this bill over a year ago, and why I continue to battle to get it through Congress.

I want to make it clear that I like cable television. I depend on it. My schedule does not allow me to plan when I'll be home, and with cable I can keep up with what's going on in the world. If I get home at 9, 10 or 11 at night, then I look to cable for breaking news, or even for reruns of Senate hearings that I could not attend myself.

And I know that many Marylanders truly need cable television. The elderly and those shut in their homes rely on cable as their link to the world. They rely on CNN on the Weather channel, and many use their televisions as a type of companionship. And they need to be guaranteed that they got good cable service at a fair price.

We've got great programming like the Discovery channel being put together right in Maryland. Discovery makes quality, informative programming that is seen across the country and overseas. But my experience, and that of many Marylanders, is that there are serious problems with the cable television industry.

Eight years ago Congress deregulated the cable television industry, hoping that competition would do a better job of keeping service good and prices down. Back then we looked at cable as David fighting the Goliath of the networks. Cable companies needed a boost to grow, and deregulation looked like the right way to go. Cable grew fast and got very expensive.

Cable rates are skyrocketing across my State of Maryland, and across the country. Cable rates are going up at three times the rate of inflation, and some studies say that consumers are being overcharged by $6 billion every year.

Those who depend on cable and those who use it for entertainment tell me their rates are too high—and they feel the pinch every month when they write out their checks to their local cable monopoly.

And high rates have often brought poor service along with them. Installations and repairs can be a nightmare. Many cable companies have telephone numbers that are always busy or never pick up. Even if you get through, you still have no guarantees on getting satisfaction. And you can't take your business elsewhere.

That's why Marylanders are telling me cable television should be regulated like a utility. Marylanders have a public service commission for telephones, electricity, and gas. They want something similar for cable. They want someplace to go when their rates go up too fast. They want someplace to turn when they get poor service.

That's why America needs S. 12. This bill gives the Federal Communications Commission and local governments the ability to protect cable viewers. It puts responsibility back on the cable monopolies we have across America.

If cable companies don't face competition—and not many do—then they will have to provide reasonable service at reasonable rates. If they are ignoring their customers, they have to answer to the FCC.

If they are overcharging and profiting at consumers' expense, their rates can be rolled back. S. 12 says that consumers will have the power to do something if their rates double in just a few years and they get keep getting bad service.

And this bill is fair. It doesn't punish the cable industry, it just encourages competition and, failing that, asks that cable companies price their services fairly and treat their customers with respect. S. 12 does allow cable companies a reasonable profit, but forbids profiteering and monopoly business practices that have cost consumers billions of dollars over the past few years.

That's why I'm cosponsoring the Cable Television Consumer Protection Act and why I'll keep battling to make sure cable viewers in Maryland are protected. I urge my colleague to join me in passing S. 12 and making sure that we straighten out the cable industry.

Mr. GRASSLEY. I would like to ask the distinguished Senator from Hawaii, Senator INOUYE, for a point of clarification concerning the so-called anti-buy-through provision of the conference report on S. 12. This provision would allow basic cable subscribers to subscribe to premium or pay-per-view services without being required to subscribe to enhanced basic or upper tiers of programming. While I applaud the intention of this provision to provide consumers with additional choice, I am concerned that this provision may require some cable operators to install addressable technology that could increase their costs of providing service.

Mr. INOUYE. The Senator from Iowa is correct. The purpose of this provision is to increase the options for consumers who do not wish to purchase upper cable tiers but who do wish to subscribe to premium or pay-per-view programs. In response to the concerns about costs expressed by some cable operators, however, the conferees on S. 12 gave cable operators 10 years to comply with this provision. Remember also that about 40 percent of our cable systems already have in place the technology necessary to meet this provision's requirements, and it is expected that soon a majority of cable systems will have that capability. But for those cable systems that cannot offer this service because the cost of installing addressable technology would force cable rates up, the conference report allows the FCC to grant waivers of this requirement if the Commission determines that compliance would require the cable operator to increase its rates.

Mr. GRASSLEY. This clarification is helpful. Of Iowa's 533 cable systems, 458 have fewer than 3,500 subscribers. In fact, 402 serve fewer than 1,000 subscribers. So, I am particularly concerned about the impact of this provision on small cable operators. Many of the cable operators in my State are small and have been providing cable service for a number of years. The potential costs of installing addressable

Members of this body that raised some concerns about retransmission consent. I had hoped that these concerns would be addressed when the House of Representatives considered the bill.

What happened?

The House removed retransmission consent from its cable bill to avoid a full and thorough investigation of the issue by the House Judiciary Committee. And the House-Senate conference committee adopted the Senate's provision, even though I and a large number of my colleagues in both Houses of Congress had serious practical and legal questions about this issue.

In short, Mr. President, my questions on retransmission consent went unanswered.

Specifically, retransmission consent requires local cable operators to negotiate with and pay TV broadcasters for the right to carry the broadcasters' signals. However, this provision runs contrary to current law, which gives cable operators the right to carry these local TV programs free of charge. The result is that TV and film producers—the owners of the programs we see on television—would have less control over the use of their programming than the broadcasters who package and transmit the programs. And it would also result in cable consumers paying for a product that non-cable consumers get for free.

The U.S. programming industry is an essential part of our economy, especially in California. In fact, California's entertainment industry is one of our Nation's leading exporters, employing tens of thousands of Americans and returning $3.5 billion in surplus balance of trade to the United States each year. This industry produces the programs we watch, not the signal itself. The cable bill rewards the signal, and not the programming, and the cable consumers will pay for that reward.

This sends a wrong message about one of America's most important industries. It is a message foreign governments are sure to get and like. American TV programming is very popular abroad, and U.S. programmers already face hostile and unfair trade practices from foreign governments. This bill will encourage foreign governments to enact provisions similar to retransmission consent, costing our economy tens of millions of dollars in lost revenue.

Furthermore, the excessive rate regulations in this bill will place on hold the expected expansion of cable into fiber optics and other advanced telecommunications fields. A number of California fiber optics and information service industries fear that this bill unnecessarily threatens much-needed job growth in California.

Cable consumers expect and deserve quality cable service at a low price. Competition must be our best long-term answer, with responsible regulation a short-term solution where competition does not exist. There is little in this bill that will promote competition, and much in this bill that will impose unnecessary costs on California's economy. I have a duty to protect the consumer, but I also have a duty to prevent undue hardship to my State, especially at a time when it is struggling valiantly to recover. That is why a majority of the California congressional delegation opposed the cable bill in the House of Representatives. That is why I must oppose the cable bill today.

I strongly hope that, should a presidential veto be sustained, the Congress will pursue responsible legislation that benefits consumers without hurting workers, one that promotes competition and innovation, not regulation and economic stagnation. The people of my State deserve nothing less than a balanced, responsible approach.

Mr. KERRY. Mr. President, in January of this year, when the Senate debated and ultimately passed the cable television legislation that reappears before us today in the form of a conference report, I joined with several colleagues to craft and offer a substitute amendment for the bill approved by the Commerce Committee and which subsequently was approved in substantially the same form by the Senate.

I said at the time that the bill language that was approved made me extremely uncomfortable in several key respects. My conclusion was then, and remains today, that S. 12 did not achieve anywhere near the correct balance between the effort to regulatorily assure that cable consumers are not victimized with unreasonable high prices and the necessity for market force incentives to assure that the quality and selection of cable programming will continue to increase.

The evidence over the past decade, in my judgment, is that increases in rates, some of them very large, have been experienced in a number of locales—by no means in all, but in a disturbing number. This has occurred on a sufficiently widespread basis that the consumers of the Nation have a right to expect Congress to act decisively to prevent further victimization.

But on the other side of the equation is my strong belief that this bill yields to a constant temptation: to kill with too much of a good thing. In an effort to be responsive to the legitimate complaints of those who have seen their cable rates climb beyond all reason, this legislation extends its reach in a way that I fear will stifle creativity, and undermine the quality and diversity of programming which are largely responsible for the favor in which cable is held by the public today. Ironically, the cable industry's political problems are exacerbated by its success: If no one wanted to watch cable, no one would subscribe, and cable rates would not be a compelling topic for congressional consideration. But it is important to keep in mind that cable's success has not been accidental. It has come with a lot of hard work by industry leaders. It has come with a lot of investment in innovative programming, coupled with a commitment to high quality and responsiveness to the viewing desires of the public. And to a significant extent, these were made possible by a healthy industry revenue stream.

The challenge to the Congress was to devise a mechanism for preventing abuses by applying just enough force. Intervention in the free marketplace should be only as extensive as necessary to accomplish the intended purpose. The unfortunate truth is that this bill failed to achieve this delicate and precise approach.

I am troubled, too, by the way in which the bill treats copyrights of programming. It is important to assure that inequities in market clout do not act to prevent some groups of Americans from gaining access to high-quality programs. But those who originate programming are entitled to a fair return on their effort and their investment, and I believe this bill will result in situations that produce neither. This among other peripheral but nonetheless very important issues must be addressed anew by the Congress in 1993. I am committed to reexamining the functioning of the copyright in the cable environment, and producing a policy which is carefully crafted and equitable.

But having touched lightly on some of the less-than-desirable features of the conference report, I nonetheless have concluded that the conference report is not so egregious that it warrants or would excuse a total failure of Congress to act on the cable issue this year—which will be the outcome if the Senate fails today to approve that conference report. And it is true that in some respects the conference report is a preferable bill to the bill passed in January by the Senate.

Based on all these factors I have decided that the need for governmental intervention outweighs the potential consequences of applying the hand of regulation too heavily, and so I will vote in favor of the report. While I no longer have the hope I had when I reluctantly voted for Senate passage of S. 12 that the House might craft a superior bill, I retain the conviction that Government should retain a careful focus on the objective of its policymaking. In the case of this bill, that should and must be the consumer of cable services, both current and future.

I am hopeful that my fears about the effects of overbearing regulation will prove to be unfounded. But if difficulties do emerge, I expect to be involved in remedial efforts.

If this legislation becomes law, with the signature of the President or over his objection, whichever he wishes, I urge the distinguished chairmen of the Senate Commerce Committee, Senator HOLLINGS, and of the Subcommittee on Communications, Senator INOUYE, and the two ranking members, JOHN DANFORTH and BOB PACKWOOD—who did

With unemployment at more than 9 million people and the economy in a chronic recession, any rate increase has a harmful effect on American households. Rate increases have an especially harmful impact on people with fixed incomes. Cable TV has become a lifeline to the world for many senior citizens; and as the National Council of Senior Citizens points out, seniors on fixed incomes find it harder and harder to pay their skyrocketing cable rates.

Shocking rate increase for individual households since the 1984 Cable Communications Policy Act was enacted make the rate regulations of basic tier cable in S. 12 the most important provision in his bill. I have appended to my statement figures from the Consumer Federation of America showing cable rate increases in Washington State. The average rate increase since 1986 for our five markets was 85 percent.

Another significant section of this legislation provides for what is known as must carry. I am an ardent supporter of public television. The must carry provision is essential to protect public television and the rights of small independent commercial stations. Without this, these stations could be swept off cable or be saddled with obscure channel positions on the cable dial.

The must carry provisions also guarantees the actual distribution of public television and small independent commercial TV stations. One station in Washington, KCJ Channel 17 in Yakima, has been trying for 2 years to get picked up by cable. This is the only locally owned, commercial television station not on cable. It also happens to be the only Hispanic station, which serves the large and growing Hispanic population in the Yakima Valley. This bill would help KCJ and Hispanic viewers in the valley. Without it, Hispanic viewers in the Yakima Valley and stations like KCJ are at the mercy of a cable system unburdened by the consumer-oriented benefits of free competition.

The retransmission consent provisions of S. 12 requires more equity in the business relationship between local TV broadcasters and the cable companies. This provision takes a balanced approach. I believe some local affiliates of major TV networks when they predict their financial future is uncertain at best under cable deregulation. I do not want to see local TV stations fall into bankruptcy like many of our deregulated airlines.

Finally, the access to programming provisions is designed to stimulate new forms of transmitting, such as high definition satellite-transmitted TV and audio. This section will help U.S. industry pioneer new forms of communication. Clearly, this would also enhance our international competitiveness.

A Washington State senator recently wrote me that he receives hundreds of letters annually, from cable television customers complaining about poor service, increasing rates, and a lack of choice. This bill gives consumers a choice and is simply the right thing to do.

A mayor of a major city in the State of Washington recently wrote me the following note:

> For the past 2-1/2 years city staff has been engaged in refranchising negotiations with our local cable operator. We have discovered that few of the public benefits envisioned by the supporters of the 1984 Cable Act have come to fruition, and the process of crafting a franchise which meets the community's future cable-related needs and interests is frustrated for all sides involved.

The mayor goes on to point out that not only do he and his city council endorse S. 12, but so do the National League of Cities, the U.S. Conference of Mayors and the National Association of Counties. Many local elected officials would like to see an even tougher bill. Wherever possible, we should fashion as strong a consumer bill as possible.

S. 12 also looks to future competition, especially from new wireless cable systems. Section 19 of S. 12 provides competitors of the existing cable system with fair access to programming. The Skyline Entertainment Network, a wireless system in Spokane, WA, claims that big cable system operators will try to maintain their monopolies by trying to weaken or eliminate the fair access provision in the bill. Skyline and a similar wireless system in Yakima, WA, are good examples of the type of new systems that section 19 will encourage.

Mr. President before I conclude I would like to comment on the recent war of words that has come streaming across my television set over the past few weeks directing viewers to call their Senators and stop the cable bill. In the September 14 edition of the Washington Post, Tom Shales wrote a surprisingly cogent legislative analysis, for a television writer, on this issue. He wrote, "If there's one thing the cable people don't like, it's regulation. They consider it impertinent. And if there's another thing they don't like, it's the thought of competition. Competition is their kryptonite. They turn green and start to ooze."

Let's set the record straight. Responsible regulation to protect consumers and encourage competition is not misguided micromanagement of the cable industry, it is simply common sense. Consumers cannot continue to be burdened by the unrestrained hand of an expansionist monopoly over the cable marketplace. We, in this body, have a responsibility to the public to get the cable industry headed down the right road, and eventually toward a competitive market with the consumers' best interest at heart.

In conclusion, Mr. President, let me repeat: S. 12 is a good bill, it's a fair bill, and it gives consumers a choice. We need to restore reasonable regulation, balance and sanity to today's cable marketplace. The conference agreement on S. 12 will help us accomplish this.

According to the Consumer Federation of America the following figures illustrate the extent of cable rate increases in the State of Washington:

CABLE RATE INCREASES

BREMERTON—TCI CABLEVISION OF WASHINGTON

1986—$11.95 for basic service (25 channels) (Nation Wide Cablevision Inc.).

Dec. 1991—$19.20 for limited basic (26 channels); $20.55 for expanded basic (31 channels).

Feb. 1992—$20.20 for limited basic (26 channels); $22.55 for expanded basic (31 channels).

Increase: December 1991—61% for similar offering; February 1992—69% for similar offering.

Note: There will be a 5% rate increase for limited basic service and a 10% increase for expanded basic service in February 1992.

PULLMAN—CABLEVISION

1986—$9.45 for basic (22 channels).

Dec. 1991—$8.23 for limited basic (12 channels); $20.55 for expanded basic (33 channels).

Increase: 117% for similar but expanded offering.

SEATTLE—TCI CABLEVISION OF SEATTLE INC.

1986—$10.55 for basic (14 channels) (Group W Cable of Seattle).

Nov. 1991—$20.00 for basic (35 channels).

Increase: 90% for basic service.

SPOKANE—COX CABLE SPOKANE

1986—$11.00 for basic (35 channels).

Dec. 1991—$19.91 for basic (33 channels).

Increase: 81% for basic service.

TOCOMA—TCI CABLEVISION OF TACOMA INC.

1986—$12.96 for basic (32 channels) (Group W of Tacoma).

Dec. 1991—$20.03 for limited basic (26 channels); $21.03 for expanded basic (31 channels).

Feb. 1992—$22.03 for expanded basic (33 channels).

Increase: December 1991—62% for similar offering; February 1992—70% for similar offering.

Note: There will be a 5% rate increase for expanded basic service in February 1992.

Mr. BIDEN. Mr. President, I support the conference report on the Cable Television Consumer Protection Act.

The Cable Television Consumer Protection Act will help put an end to the steady and excessive increases in monthly cable bills that consumers have suffered from during the past few years.

The people of Delaware, like consumers across the country, have seen monthly cable television bills grow steadily larger and larger. They believe they are paying too much—and they are. In less than 3 years' time, subscribers to cable television in Delaware saw their monthly charge for one service—not coincidentally a popular one—jump $7.

What accounts for these excessive increases in cable television rates?

When Congress deregulated the cable industry in 1984, it expected market forces to replace Government control. But competition remains absent from the cable television market.

In Delaware, as in most other States, cable franchises do not face any competition. They are unregulated monopolies. Nowhere in Delaware are there two sets of cable television lines serving the same residence. If there were

legislation goes too far and risks harming the very consumers for whom it is designed to help.

I regret that Congress has taken a good idea and—by adding new provision after new provision—turned it into bad legislation. Poor customer service and steep rate increases are major problems that need to be addressed. Consumers deserve a strong bill. Unfortunately, the conference report goes overboard; the ultimate loser in this year's battle is the cable subscriber who may have to wait until next year for genuine cable reform legislation.

Mr. DOMENICI. Mr. President, for quite some time, I have been concerned about the position of the cable television industry in our society. In many geographic regions, Americans clearly have benefited from cable's improved reception quality, while, across the board, the vast explosion of available programming has given options to our citizens that few even imagined a decade ago. We have not, however, been the beneficiaries of an unmitigated blessing. A mature cable industry has, in many areas, raised costs to customers at a rate several times that of inflation, and, in what frequently amounts to monopoly environments, provided services of such quality that they simply would not be tolerated in a competitive market.

The current regime for the cable television operators was created when the industry truly was in its infancy. While it held much promise for the future, it was clear that, without some assistance, this alternative form of television would not be able to compete with the already-existing networks. As a result, cable systems were given an environment which would encourage their development, including a provision which provided network signals to the cable stations without charge.

Today, cable television is a mature industry fully capable of maintaining itself in the open market. Indeed, in many areas it has become an unregulated monopoly with a natural motivation to maintain that status to the full extent possible.

While not a perfect solution, the Cable Television Consumer Protection and Competition Act of 1992, S. 12, provides a solid basis for reconciling current problems within the cable industry while establishing a framework for development of technologies to improve video programming in America's homes into the next century. Although generally skeptical of regulation as an economic mechanism, I believe that in this case the pervasiveness of local monopolies in the industry justifies the limited rate regulation contained in S. 12. Indeed, the conference report improves upon the original Senate version by further restricting the definition of the basic tier to which regulations would apply and by requiring the granting of licenses to competing cable companies in broadcast areas which can support multiple systems.

Recognizing cable's maturity, S. 12 takes several steps to build both equity and competitive alternatives into the home video market. The ability of cable systems to use network programming without consideration is terminated, thereby giving broadcasters the opportunity to receive payment for their products. Legislated regulatory requirements will prevent cable operators from passing these costs on to consumers. Moreover, cable-owned producers will be required to sell programs at comparable rates to all competing video suppliers. This will provide the basis by which new infant technologies can open the market to even greater competition, particularly for rural consumers who today still do not have access to cable.

The home video market will continue the dramatic evolution we have witnessed over the past several years. While S. 12 lays a framework for development of the industry into the next century, it will be imperative that the regulators and Congress monitor this sector closely to assure that provisions of the bill accomplish the goals established for them. There is potential, as in every regulated situation, for the costs of regulation to escalate and for the burdens imposed by the regulation to strangle the sector to the ultimate detriment of the consumer. It is particularly important that a newly regulated cable industry still retains the incentive to develop new and vibrant programming and technical products for the market and that true competition replaces government agencies as the arbiter in this market as quickly as possible.

Mr. McCONNELL. Mr. President, the Senate will shortly consider the conference report to the Cable Television Consumer Protection Act. I intend to vote for this legislation—as I did when S. 12 was debated in the Senate—because it will ensure competition within the cable industry.

We have all heard from our constituents complaining of high cable rates and cable company service. Some of us may have even experienced these problems firsthand. According to the Consumer Federation of America, since 1987 the price of cable has increased more than 60 percent—much faster than the rate of inflation—and in regions where competition already exists, cable rates are 30 percent lower than in areas where cable companies enjoy monopoly status.

As one who usually opposes Government regulation of private business, this is not an easy vote for me to cast. However, the cable bill does contain a provision that would terminate rate regulation when effective cable competition is established. My constituents know that I view this provision to be among the most important in the bill.

I have no doubt this conference report may be vetoed by the President. I find it somewhat unfortunate—even suspicious—that we are acting on this legislation near the end of this session of Congress, and, more interestingly, so close to the Presidential election. I do not know if the timing of the vote was influenced by any special interest group, as some have suggested, or if it is a result of election year politics. This bill has been around for 3 years, and I regret that Congress did not consider it sooner.

In closing, let me just say that a veto will change the playing field. As I fear this issue could become a political football, I intend to follow the cable bill to the President's desk. Should it return to Congress, I will closely survey the field to ensure the bill—and the President—do not fall victim to special interest maneuvering, and election year plotting.

Mr. RIEGLE. Mr. President, I strongly support efforts to regulate cable rates and ensure adequate customer service. We all know that over the past 5 years cable rates for the most popular tier of programming have increased by over 60 percent, much faster than the rate of inflation. Rates have risen far beyond the amount family incomes have increased. That means that cable rates are taking a larger and larger share of a family's income. For seniors on fixed incomes and for low and moderate wage earners in particular, increasing cable rates are putting a greater and greater strain on family budgets.

If these increased costs reflected only value of greater programming, the Senate would not be debating this legislation. However, this is not the case. The fact that most cable companies hold a monopoly over cable users provides them with the opportunity to raise rates in excess of that which would be allowed in a competitive market. A study conducted by an economist in the Department of Justice confirms this. That study found that at least 45 to 50 percent of the price increases since the mid-1980's were due to the cable industry's market power. According to the Consumer Federation of America, cable rates are 30 percent lower in areas in which there is effective competition.

Further, as prices have increased—far beyond the rate of inflation or any other usual basis for rate increases—cable customers have been increasingly dissatisfied with the service provided by cable companies. Delays in service calls frequently occur. Billing errors are difficult to correct. Complaints from customers go unanswered.

For these reasons, I strongly support cable rate regulation to mitigate the monopoly power of cable companies. I also support improved regulation of cable service to customers. These goals—lower customer cable rates and improved customer service—are the touchstones for my support for any legislation in this area.

Nonetheless, I have some concerns about the bill before us today. Some commentators, and not only cable companies, have argued that this bill con-

opportunity to seek relief at the FCC. The Commission can set a reasonable limit on what a broadcaster may charge, in light of the costs of comparable programming, and other factors. This should provide protection to consumers from increases due to broadcaster fees, if not other factors.

Finally, if a cable operator feels that a broadcaster's demands are excessive, nothing in the legislation prevents them from simply refusing to pay. And, the fact is, most broadcasters will have strong interest in ensuring that their signal is retransmitted over cable, so the pressures they'll be facing will be very real.

In conclusion, Mr. President, this bill is meant to contain prices; to provide protection for consumers against monopoly practices; and to secure better service for cable subscribers.

Mr. President, no bill is perfect. However, viewed as a whole, this legislation would improve the status quo, by promoting competition and providing important protections for cable consumers.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. MACK (when his name was called). Present.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—74

Adams	Ford	McConnell
Akaka	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Grassley	Murkowski
Bond	Harkin	Nunn
Bradley	Hatch	Pell
Breaux	Hatfield	Pressler
Bryan	Heflin	Pryor
Bumpers	Hollings	Riegle
Burdick, Jocelyn	Inouye	Robb
Byrd	Jeffords	Rockefeller
Coats	Johnston	Roth
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
D'Amato	Kerrey	Simon
Danforth	Kerry	Simpson
Daschle	Kohl	Specter
Dixon	Lautenberg	Thurmond
Dodd	Leahy	Warner
Domenici	Levin	Wellstone
Durenberger	Lieberman	Wofford
Exon	McCain	

NAYS—25

Boren	Garn	Seymour
Brown	Gramm	Shelby
Burns	Helms	Smith
Chafee	Lott	Stevens
Craig	Lugar	Symms
Cranston	Nickles	Wallop
DeConcini	Packwood	Wirth
Dole	Reid	
Fowler	Rudman	

ANSWERED "PRESENT"—1

Mack

So the conference report was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL VOTER REGISTRATION ACT—VETO

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the President's veto message on S. 250, the National Voter Registration Act.

(The text of the President's veto message is printed on page S14202 of the CONGRESSIONAL RECORD of September 21, 1992.)

The Senate proceeded to consider the bill.

Mr BRADLEY. Mr. President, to urge my colleagues to vote to override the President's veto of the motor-voter bill.

We are a representative democracy. Every Member of this body holds his or her position because the citizens of his or her State put him or her in office. In turn, we represent the constituents of our States. But if only 36 percent of voting-aged Americans voted in the congressional elections of 1990, who are we representing? If we truly are a Government of the people and by the people, should not we aim for 100-percent participation? As lawmakers, it is our duty to do what we can to strengthen our democracy.

Barely half of all eligible voters participated in the 1988 Presidential election—the lowest rate in 64 years. This phenomenon can be addressed by changing our outmoded registration process. The process makes voting a painful task rather than a natural right. Voters no longer see it as an opportunity to opine within the system. Instead, they view the complexity of the system as a reason to stay out.

Simply stated, those who register vote. In the 1988 elections, 86 percent of those who registered voted. However, if 40 percent of the voting-age population woke up on election day and wanted to vote, they could not vote because they are not registered. In a 1990 study, the GAO recognized that difficulties involved in registration have affected voter turnout, suggesting that Congress consider making registration more convenient and accessible.

Difficulties in voter registration abound, Mr. President. The boards of election in some municipalities select registration deputies and decide when and where registration sites will be located. This can limit access to a wide variety of people. Registrar deputization can be a broad-scale voting impediment. While some boards of election accept most volunteer deputies, others make the process a taxing one by requiring extensive training, swearing, and complicated applications. The League of Women's Voters, supporters of this bill, has commented that, "restricted hours, inconvenient and hard-to-locate registration sites, restrictive deputization requirements, short time intervals before purging voters names from registration rolls, and inadequate ways of notifying those who are purged, are some of the barriers that discourage voter participation."

In addition, if poverty was not enough, there exist registration procedures and practices which prevent the poor from voting. Impediments such as opening registration sites only during regular work hours or making registration sites inaccessible by public transportation leave a large segment of our society without representation. Have we forgotten those who earn an hourly wage? Have we forgotten those who do not have access to a car?

The motor voter bill addresses all of the problems I just listed and establishes a clear, uniform registration process. Every citizen who renews or changes his address on a drivers license will also have the option of registering to vote. This registers and enfranchises 90 percent of our voting-age population.

The bill also provides for voter registration at other Government agencies, such as welfare, unemployment and vocational rehabilitation offices. For disabled citizens or low-income citizens who are less likely to have driver's licenses, agency registration is an important vehicle for political empowerment. The bill also provides for mail-in registration which will allow students and other citizens unable to reach a registration site to vote.

The President vetoed this bill, arguing that it would promote voter fraud. Nothing could be further from the truth. The fact is that 34 States and the District of Columbia have some form of motor-voter and none have experienced any significant fraud. In my opinion, the President's emphasis on voter fraud as a reason for opposing this bill simply masks his reluctance to attempt ways to involve more people in the electoral process. What is he afraid of? Motor voter is a good idea and I urge my colleagues to vote to override the President's veto.

Mr. DURENBERGER. Mr. President, I rise today to briefly explain my reasons for voting to override the President's vote of S. 250, the motor-voter bill.

As part of a Government that is based on the consent of the governed, this body should be alarmed by the few numbers of the governed who actually show up on election day to give consent.

In the 1988 Presidential election, 70 million eligible Americans were not registered to vote. Only about half of the voting age population bothered to cast their ballots. Among those 18 to 20 years old, only a third bothered to vote. And in the 1990 congressional elections, national voter turnout was a pitiful 36 percent.