



**Statement of Matthew M. Polka,
President and CEO
American Cable Association**

**on behalf of
The American Cable Association**

**Before the
Federal Communications Commission,
En Banc Hearing, Pittsburgh, PA, Carnegie-Mellon University**

"Broadband and the Digital Future"

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Chairman Martin, Congressman Doyle, and members of the Commission, thank you for inviting me to speak today on broadband and the digital future in smaller markets and rural areas, and the positive impact that smaller, independent cable and broadband providers can have for consumers throughout the United States.

My name is Matt Polka, and I am President and CEO of the American Cable Association. ACA appreciates the chance to speak before the Commission, which understands the unique challenges that face small businesses.

In a telecommunications world that is becoming increasingly dominated by industry giants, **ACA is the voice for nearly 1,100 small and medium-sized cable**

companies that serve almost 7.5 million subscribers in smaller and rural markets in all 50 states. Our members range from family-run cable businesses serving a single community to multiple system operators that focus on many smaller markets. The average operator size is about 7,500 subscribers, but many of ACA's members serve fewer than 1,000 subscribers. In fact, 800 of our 1,100 members serve less than 5,000 subscribers.

ACA members are vital businesses and competitors in their communities and for consumers. In addition to providing broadcast and cable programming, the majority of our members has deployed high-speed Internet access, while many are starting to deploy Internet phone service, providing a broadband connection in their communities where no other company offers these services.

Our members are offering broadband to their customers, in spite of the economic challenges typical of service providers in rural America.

First, the cost to upgrade a cable-only system to provide Internet access is significant and more difficult to recoup for operators with a limited number of subscribers. Equipment costs for upgrades are often the same regardless of the number of customers that will be served. Therefore, developing a business model to pay for a piece of expensive equipment is very different for a system that has only 5,000 subscribers versus one that has a half-million.

Second, the cost of maintaining a cable network is high when the distance among subscribers is great. A small cable company might need an employee to travel an hour or more to make a service call to a subscriber's home.

Finally, access to capital can be difficult. To pay for the necessary upgrades and maintenance costs, many of our members must turn to bankers on their local Main Streets, not financiers on Wall Street. Financing broadband in smaller markets and rural areas doesn't come either easy or cheap.

Despite the challenges, ACA members are investing in, and moving to, offering greater deploying broadband services in smaller markets and rural areas to meet consumer demand. Our members know that their customers want broadband, and they are finding ways to offer it at reasonable prices, knowing their customers are price sensitive, even though the costs of running their business and supporting broadband services are increasing.

Our members, who live in the towns and rural areas they serve, know first hand how broadband access has improved their communities. It has made their towns a better place to live, work and raise a family. In addition to offering the service to consumers, some of our members provide broadband to hospitals and schools, enhancing their hometown's health care and education. They also offer service to their community's small businesses, allowing them to sell their goods and services throughout the country and the world. In some rural areas, cable operators also provide high-speed Internet access to their local government.

Broadband is bringing the many benefits of these services to smaller markets and rural areas, and ACA members believe government should encourage greater broadband deployment in these areas through limited regulation and sensitivity to the unique economic concerns of these markets.

However, it is important to note that any potential increase in our members' costs, whether through the cost of imposed regulation or for other content carried on our members' cable systems, has a direct bearing on our members' ability to continue to deploy existing or new broadband services.

As a result, ACA members are concerned when new regulations from the FCC on broadband or other areas impose a disproportionate cost on smaller broadband providers in smaller markets and rural areas, whether through the direct financial cost of implementation or through the loss of system bandwidth to meet the regulatory requirements.

For instance, some existing regulations and new ones are limiting the amount of resources available to small cable operators for broadband deployment.

- On June 1, 2007, the FCC mandated that cable operators begin deploying more expensive digital set-top boxes with separable security to their subscribers. While some operators have received much-appreciated waivers from the Commission, the added costs imposed on most ACA members for these new set-top boxes take funds away from broadband deployment. In some cases, there simply isn't enough money to go around for smaller operators to meet both the regulatory requirement and the broadband need.
- On June 12th of this year, the FCC imposed new requirements on broadband providers to report data on broadband deployment. While ACA strongly supports the Commission's efforts to obtain accurate broadband deployment

data, additional reporting obligations add to the challenges that ACA's members face in bringing affordable advanced services to smaller markets and rural areas. The actual deployment of broadband must take priority over gathering information on the deployment of broadband.

- The FCC is also considering raising the cable broadband pole attachment rate for broadband services provided over a cable television system. ACA's members already face significant hurdles to deploying and upgrading broadband networks, and the effect of an increase in the broadband attachment rate is multiplied for each smaller-market and rural subscriber. Pole owners are already fully compensated (or over compensated) for cable attachments under the existing cable formula, and providing broadband over those cable facilities does not impose any additional costs on pole owners. Raising the cable broadband pole attachment rate will accomplish nothing more than raising costs for smaller market and rural consumers, and impeding broadband deployment in their communities.

As a result, ACA urges the Commission to be vigilant in its ongoing review of regulations that have a significant economic impact on small cable operators to determine whether the rules should be amended or rescinded in order to free up resources and bandwidth for the deployment of greater broadband services in rural America.

For the most part, ACA's smaller, independent cable companies will be the only ones providing wired, broadband video, Internet and phones services in their smaller

and rural markets, and their success will have a lot to do with FCC's success in ensuring the best of broadband reaches the farthest corners of rural America.

But there are success stories too, and ACA appreciates how the Commission has taken into account the unique needs of smaller providers and smaller communities to ensure greater broadband deployment.

For instance, we welcome Chairman Martin's recent announcement at our ACA Summit in Washington, D.C., that an exemption for certain small systems from digital must-carry obligations will be forthcoming at the Commission, and we appreciate the staunch support for this from Commissioners Adelstein and Copps. Such an exemption will preserve finite system bandwidth for small operators, and give many the flexibility necessary to invest their limited resources to best serve their customers. ACA sincerely hopes that this order can be adopted soon.

There are marketplace concerns too that, when coupled with existing FCC rules and regulations, have a dramatic impact on the rising costs and bandwidth constraints of smaller cable providers and their ability to provide greater broadband services to their customers in smaller markets and rural areas.

The most significant concerns of ACA members are the rising costs of cable and broadcast programming and the ways that broadcasters and programmers force programming content onto smaller cable systems, pushing that cost down to our customers and taking away our bandwidth that could be used for other broadband services or to give our customers more video choices.

Small cable operators who serve a limited number of subscribers have no leverage in negotiations with network broadcasters and national programmers who come to the table demanding that operators pay double, even triple, the fees previously paid by the larger cable providers, and who also force our members to carry undesired, affiliated broadcast or cable programming just to get the popular TV station or cable channel.

Today, even as the government, broadcasters, and cable operators work together to minimize the confusion among consumers associated with the digital transition, their collective efforts and our members ability to continue to provide greater broadband services may be disrupted by broadcasters who will be negotiating retransmission consent deals with cable operators at roughly the same time.

In the second half of 2008, the retransmission consent agreements that enable cable operators to offer local broadcast signals will expire, and ACA expects a significant number of its members to face difficult negotiations. As it stands, federal retransmission consent and network non-duplication rules grant broadcasters unrestrained power in these negotiations, and broadcasters commonly leverage their power to demand unreasonable prices, terms, and conditions from small and medium-sized operators. They use this power to discriminate against small and medium-sized operators; including charging per subscriber fees 200 to 1,100% higher for smaller operators than for larger ones for identical content without any rational justification.

In September 2007, the FCC issued a rulemaking seeking comment on revisions to the Commission's program access and retransmission consent rules. The ACA filed

comments in this proceeding describing the broadcasters' discriminatory conduct toward small cable operators, and proposed prohibiting volume-based price differences in retransmission consent fees, unless those differences are cost-based, and eliminating forced carriage of affiliated programming content, commonly known as bundling.

To put an end to discriminatory and harmful programming bundling and retransmission consent practices and to ensure the continued deployment of broadband services in smaller markets and rural areas, not to mention giving consumers more choice and control over the programming they want to watch, we urge the Commission to proceed with its rulemaking on tying and bundling and retransmission consent and to complete this process as soon as possible.

More recently, ACA has supported a petition filed by our members, Mediacom and General Communications, Inc., along with several other independent cable operators, asking the Commission to promptly adopt a retransmission consent "quiet period" to ensure that retransmission consent disputes in the months surrounding the digital transition do not unnecessarily trigger consumer confusion or service disruptions at a time when the American public is most dependent on the cable industry's delivery of broadcast signals.

We urge the Commission to adopt the "Quiet Period" petition forthwith. It will not only diffuse tensions for consumers created by the unrestrained demands of broadcasters and programmers, but also provide continuity for smaller cable operators in smaller markets and rural areas to continue job number one – rolling out broadband and advanced services.

Mr. Chairman and Members of the Commission, thank you again for the opportunity to testify, and thank you for the privilege of being a part of this important event in my hometown. Welcome to Pittsburgh!