

STATEMENT OF

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BEFORE THE

HOUSE CONSUMER AFFAIRS COMMITTEE

ON

HOUSE BILL 1490

FEBRUARY 7, 2008

Chairman Preston, Chairman Godshall, and members of the House Consumer Affairs Committee. Good morning. My name is Brian Barno and I am the Vice President of Government Affairs for the Broadband Cable Association of Pennsylvania (BCAP). Thank you for providing BCAP the opportunity to offer comments on HB 1490.

Pennsylvania cable operators are national leaders in bringing broadband to urban, suburban and rural areas. Since the 1996 Telecommunications Act, BCAP members have invested over seven billion dollars in the Commonwealth to build a state of the art fiber optic-rich network allowing us to deliver advanced video, high speed Internet and digital voice services. Our industry's investment of risk capital is the largest private infrastructure commitment in the history of the Commonwealth. BCAP understands the positive impact of broadband technology. The stated goal of HB 1490, to extend the reach and benefits of broadband throughout the state, is noble. However, BCAP is concerned that rather than expand broadband benefits statewide, HB 1490 will reduce broadband availability, decrease investment, and lead to higher costs.

HB 1490 tasks the Pennsylvania Public Utility Commission (PUC) with the responsibility to not only manage the video franchising process but to do it with "existing staff." If a goal of HB 1490 is to ensure broadband deployment that doesn't discriminate by income, or ethnic group, one has to question how government bureaucrats in Harrisburg are better equipped to provide oversight than local elected officials in the community. PUC oversight of the electric, gas, and water industries, while complex, is relatively straightforward in comparison to the cable/telecommunications industry. While adding *any* significant additional regulatory responsibilities would be taxing to the PUC, adding a complex, technologically advanced industry like cable would require a major agency dislocation and significant new costs which will eventually be borne by consumers.

HB 1490 duplicates Chapter 30 of 1994 which provided incumbent telephone companies with a detailed roadmap, monitored by the PUC, to deploy broadband. Pennsylvania remains the only state where the incumbent telephone companies have a legislative mandate to deploy broadband. Act 183, adopted in 2003, established a Bonafide Retail Request (BFRR) program to allow low density rural areas, with sufficient consumer demand, to be moved up on the list of projects for expedited deployment. All indications are that the incumbent local exchange carriers are on target to reach the broadband deployment goals laid out in Chapter 30.

In our industry, the product is difficult to define, delivery technologies are changing rapidly and new services are constantly being added to the service menu. The video product broadband cable operators deliver today is vastly different than even five years ago in the number of channels, availability of HDTV, and Video on Demand (VOD) capabilities. Federal issues such as the upcoming Digital Transition, ala carte programming, must carry, retransmission consent and election law compliance are key issues for BCAP members. If HB 1490 passes, it's not unreasonable to envision the PUC being involved in both federal issues and regional/local programming disputes. This ramped-up state oversight of cable gives the satellite industry, a fierce competitor that does not pay franchise fees and has not constructed expensive broadband infrastructure in the Commonwealth, a significant market advantage.

HB 1490 acknowledges the emergence of competition for voice, video and data services. This competition comes not only from telephone companies and satellite providers, but from Internet-based video delivery systems including companies like Yahoo and Google which are offering multiple video services. Companies like CinemaNow and MovieLink provide film and TV programming with rentals that cost 99 cents. Both Apple and Starz Entertainment, partnering with Sony and Microsoft, have launched ventures to download movies and entertainment. All the major broadcast networks make their most popular programming available online, much of it for free.

Regulation doesn't foster new technologies. Does anyone believe the competition in the mobile phone market would have occurred if state government had set the rates, terms and conditions of service? Advances in technology, not heavy-handed regulation, contribute to investment, lower prices and greater diversity of service offerings.

The driving force behind the aggressive deployment of broadband in the Commonwealth has come not from government mandates but from the pioneering spirit of Pennsylvania's cable operators. These entrepreneurs used risk capital to roll out broadband in rural and small town Pennsylvania because it made good business sense; created better return on their investment and further differentiated cable from our satellite competitors. Providers that operate in multiple states will need to determine if the regulatory costs and uncertainty posed by HB 1490 counterbalance the advantages of investing in another state with a hands-off regulatory environment. Small town and rural Pennsylvania, which have a lower return on investment per mile of plant, will surely suffer when comparisons are made with investment opportunities in more densely populated states whose regulatory policies welcome broadband investment.

HB 1490 is completely unnecessary. Today's broadband networks deployed by cable operators and telephone companies throughout Pennsylvania are bringing new technology-based products and services to the Commonwealth's residents. The dramatic growth of broadband telecommunications services since Congress had the foresight not to regulate the industry represents one of the most successful periods in our history in terms of technology deployment and consumer satisfaction.

BCAP respectfully urges the General Assembly to allow the marketplace to continue working successfully for Pennsylvanians, and not create roadblocks to further broadband advancement in the Commonwealth.

Thank you for your attention. I will be happy to answer any questions.