

Resolution on Video Franchising

WHEREAS, In its white paper entitled “Federalism and Telecommunications,” addressing the appropriate roles for State and Federal governments in a Federal system, as adopted in July 2005, NARUC addressed the then-emerging issue of video franchise reform by stating, in part:

“NARUC is interested in promoting the entry of new competitors into the marketplace. State and local governments provide vital functions to the video market, such as managing right-of-way, public, educational and government (PEG) channels, build-out requirements...franchise fees and other public obligations. As we have with VOIP, wireless and other issues, NARUC will explore a ‘first principles’ approach that looks at the reasons behind regulations and requirements on all video providers.” *and*

WHEREAS, At the close of 2005, Puerto Rico and the States of Alaska, Connecticut, Hawaii, Vermont and Rhode Island issued franchises for video at the State level; *and*

WHEREAS, In addition, Statewide oversight of local franchises existed at that time in Delaware, Massachusetts, New Jersey, New York, and on a more limited basis in West Virginia; *and*

WHEREAS, Since that time, the States of Indiana, Kansas, North Carolina, South Carolina, and Texas have enacted State-issued video franchising laws, and Virginia has streamlined the franchising process while maintaining local franchising; *and*

WHEREAS, At the present time, such legislation is also actively pending in the States of California, Michigan, New Jersey, New York, Pennsylvania; *and*

WHEREAS, State franchise legislation has been contemplated and/or introduced in 2006, and/or will be introduced or re-introduced in 2007 in Florida, Iowa, Maine, Minnesota, Missouri and Wisconsin, among other States; *and*

WHEREAS, More than half of the States have taken initiatives to address video franchising, each of them in a manner appropriate to circumstances, and unique legal or constitutional considerations of the respective States; *and*

WHEREAS, Several associations of State and local government officials are on record as supporting a video franchising solution which preserves State sovereignty while streamlining and expediting the administration and granting of video franchises; *and*

WHEREAS, Such a solution would allow for the development of differing strategies for implementation, in the spirit of Federalism and innovation, while adoption of a single monolithic Federal standard increases the risk that such a policy will result in unanticipated and/or dysfunctional results, and often locks in such a policy for a decade or more, due to the difficulties inherent in building national consensus and in passing major national legislation; *and*

WHEREAS, Expediting the franchising process will facilitate ease of and reduce barriers to entry, foster additional consumer choice, and promote competitive neutrality, while preserving equal access to small providers; *now therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its 2006 Summer Meetings in San Francisco, California, calls upon the Congress to recognize the ability of States to streamline the cable franchise process in a manner that best meets the needs of their constituents and, as appropriate, expedite the franchising process to facilitate ease and speed of entry, and ensure fairness to both new entrants and incumbent providers; *and be it further*

RESOLVED, That in the event Congress should enact national legislation, such legislation should grandfather those States which enact legislation implementing video franchising reform. This flexibility of State level reform should be preserved, while allowing providers the option of operating under a national or State framework, as a means of encouraging competition, promoting consumer choice for broadband and video services, and stimulating deployment of advanced services and technologies; *and be it further*

RESOLVED, That NARUC directs its General Counsel to promote this policy of consumer choice in communications with all relevant agencies, Congress and policymakers at the Federal and State level.

Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors August 2, 2006