

# THE CITY CLUB OF NEW YORK

CIVIC GROUP CALLS FOR REGULATING CABLE TELEVISION SYSTEMS AS COMMON CARRIERS  
AND PUBLIC UTILITIES WHENEVER THERE IS NO EFFECTIVE COMPETITION  
NOR ALTERNATIVE PUBLIC CHOICES

The City Club of New York petitions the Congress, the Legislature of New York State and public officers with jurisdiction to place all physical and technical carriers and processors of public communications under common carrier-public utility principles of structure and regulation. By reasonable phases, this policy should apply to all systems with public permits, licenses or franchises to use public domains as carriers including land, air, water and the electromagnetic spectrum. As a condition for the use of scarce public domains for private gain, carriers should first supply capacity to meet the total demands of the general public, including unaffiliated independent providers of content; only then should carriers be authorized to supply content they control. Carriers should be prohibited from abridging or exercising discriminatory controls over content regardless of nature and format including speech, press, assembly as well as data, information, entertainment and transactions.

The City Club of New York, an independent, non-partisan organization of private citizens, first recommended in 1969 that not less than one-half of the capacity of Manhattan cable systems be regulated as common carriers available without discrimination to all suppliers of programs and content. Subsequently the club opposed the steady conversion of the franchised systems into unregulated de facto monopolies over the entirety of their content, legitimated by the Federal Cable Act of 1984. Now in over 8,000 franchised territories connected with over 55% of U.S. homes, cable systems have become the only broadband carriers available to the general public capable of transmitting a full range of content choices in data, speech, print, and video.

These capabilities for public benefits have not materialized. Today, cable television systems throughout the State of New York and the entire United States have:

- ...failed to provide universal service to either the users or suppliers of programs and content, contrary to the intent of the basic Communications Act of 1934.
- ...neglected the needs and interests of both business and residential users in diverse advanced broadband communications such as two-way interactive information and business/financial transactions which are practical and economically viable.
- ...denied non-discriminatory leased carriage to independent content suppliers; rather, they have extorted proprietary rights as conditions for carriage.

33 West 42nd Street, New York, New York 10036

212/921-9870

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- ...employed their enormous cash flows not to upgrade and develop their local franchised services but rather to acquire other systems, build vertically integrated program monopolies, and invest in unrelated capital ventures.
- ...packaged and priced their services without public oversight or competitive checks on their reasonableness, quality, or capabilities for public benefits.
- ...obstructed and denied interconnection with other cable systems and diverse sources of content services within their own cities, regions and nationally.

Universal, full capacity communications systems, accessible to all providers and users of content, are essential infrastructures of our society and economy. Television and other public communications services are now the guarantee to every person of equal opportunity to understand and take part in the cultural, economic and political actions of our times. Carrier systems whose existence depends on permits to use land, air and electro-magnetic public domains should be equally available to every person. If the carrier system has no effective competition and the public has no equivalent choice, the carrier's services, rates and terms should be regulated by public utility safeguards against monopoly abuses.

To remedy the monopoly controls over content now exploited by broadcast and cable carriers the Congress should authorize alternative carrier technologies now available such as fiber optics, microwave and direct satellite transmissions. Specifically, we call on federal and state legislatures to authorize fully competitive video/broadband carrier services including telephone systems but only as regulated common carrier-public utilities, forbidden to engage in content.

The City Club therefore petitions the State of New York and the U.S. Congress progressively to regulate cable television systems and all other licensed public communications carriers and processors by common carrier-utility principles of structure, access and operation. As enforced in the telephone and postal carrier systems, these regulations mandate universal access to every potential subscriber and to every potential provider of programs and content. Rates and terms of all services must be published and regulated at levels which assure efficient carriers adequate equity and loan capital. Anti-trust legislation to protect free and fair competition throughout communications systems and sub-systems in content, carriers, and processing should be rigorously enforced.

The City Club endorses the U.S. Senate Commerce Committee bill, S-2800, authorizing telephone companies to provide common common-carrier video transmission but not video content.

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