

RESPONSE TO NOTICE OF INQUIRY INTO THE STATUS OF COMPETITION IN THE MARKET FOR THE DELIVERY OF VIDEO PROGRAMMING

Hometown Online, Inc., a wholly owned subsidiary of Warwick Valley Telephone Company, has launched a competitive Digital Video service using VDSL technology, which delivers Digital Video signals over existing twisted pair, copper telephone lines. The experience gained over the last 2 years in dealing with programming content providers, and cross-ownership issues with incumbent Cable TV operators have clearly demonstrated that the availability to gain access to programming at a reasonable rate is extremely limited and difficult.

The 1st example is the contract to carry the MSGN (Madison Square Garden Network), and FSNY (Fox Sports NY) networks. Cablevision, which is the incumbent Cable TV operator in West Milford, NJ, Village and Town of Warwick, and the Village of Florida, is also a principal owner of both MSG, and of Fox Sports NY. The main programming carried on the MSG network is the NY Rangers hockey, and the NY Knicks basketball games. The main programming on the FSNY network is the NJ Devils and NY Islanders hockey, along with assorted NY Mets baseball games. An attempt was made earlier this year to move the MSGN and FSNY channels to a sports tier, as the cost for these 2 channels represent over 25% of the total content cost for all 89 basic and Expanded channels. MSGN would not allow moving these 2 channels to a tier, even though Cablevision, which is the main competitor of Hometown in Warwick, is carrying these 2 channels on a tier along with the YES network.

Cablevision received National attention this year because of their refusal to carry the YES network, which carries most of the NY Yankees baseball games, along with the NJ Nets basketball games. Cablevision cited the high cost of providing the service to all Basic and Expanded tier customers, as a valid reason to put YES on a sports tier, where only those subscribers interested in these events would pay the extra monthly fee. This extraordinarily high fee Cablevision was referring to is less than half of what MSG currently charges Hometown. This double standard being applied by Cablevision and their MSG affiliate is creating a very large barrier to entry into the competitive video marketplace and must be minimized in order to foster a true competitive marketplace where the subscriber is able to see reduced rates, increased channel lineups and improved services.

The 2nd example is the availability of local weather radar from the Weather Channel. The Weather Star, which is the device that provides the local radar, and local forecasts every 10 minutes, is a very big selling feature for the incumbent Cable TV operator, and in order to be competitive, new entrants into the marketplace should also have access to this equipment. It has been 18 months since Hometown 1st requested to purchase this equipment and to date, cannot even get a date when equipment may become available. The proprietary nature of this software and hardware mandates that this equipment can only be obtained through the Weather Channel, which is owned by a consortium of Cable TV MSO's. The delaying tactics used to deny access to this equipment can only be construed to be anti-competitive behavior.

There are many arguments that continue to be heard in the area of programming content cost, and until there is fair and equitable access to programming for all competitors, the goal of Congress in passing the 1996 Telecommunications Act will not be met.

Hometown operates in both NY and NJ and is considered to be in a rural/suburban area of both states. There are 2 incumbent Cable TV companies franchised to provide Cable TV services in these areas—Cablevision and Service Electric.

Additional competitors in the area are Direct TV and Dish Network, which together have over 15% of the homes in the franchise areas. There has been a slow progression of local telephone companies from providing strictly telecommunications services, to being a full service provider including video, such as Hometown, and the largest barrier to entry is the availability of access to programming services, and the high cost to obtain the programming needed to be competitive in the marketplace. If these barriers could be minimized, the true vision of Congress would be realized and the consumer would be the ultimate beneficiary.