

SUMMARY OF VERIZON'S COMPLAINT AGAINST MONTGOMERY COUNTY, MARYLAND

In May 2005, Verizon asked Montgomery County to grant a franchise to offer cable service in competition with Comcast. A full year later, the county has failed to approve Verizon's application. Instead, county officials have responded by demanding that Verizon agree to a host of unlawful requirements as a condition for getting a franchise.

MONTGOMERY COUNTY'S ILLEGAL ACTIONS

Montgomery County's Cable Franchising Process Violates the First Amendment.

- * By adding cable television to its menu of communications services, Verizon seeks to engage in a form of speech protected by the First Amendment. Local laws licensing speakers must spell out narrow, objective standards that limit the discretion of government officials in deciding whether to grant franchises and what conditions may be attached.
- * Montgomery's County's cable franchise process violates the First Amendment because it delegates to county officials discretion to approve or withhold franchises at will, to charge any fees they wish, to condition franchises on any demands they see fit, and to render decisions on any timeline they choose.
- * The First Amendment requires that local authorities issue franchises in a timely manner. Yet county officials told Verizon it would take until at least November 2006 to grant a franchise, even if Verizon agreed to all the county's illegal demands – a full 18 months after Verizon first asked for a franchise.

Montgomery County's Franchise Demands Violate the Federal Communications Act.

- * The Communications Act expressly prohibits local governments from exploiting their control over cable franchises to seize control over telephone and broadband Internet services. Yet county officials have, by ordinance and regulation, imposed a host of requirements on broadband and telephone services, as well as a series of rules governing the construction, operation and maintenance of Verizon's telephone network, to which Verizon would be subject once it begins offering video service.
- * The county has no justification for these requirements. Verizon is selling broadband and telephone services in Montgomery County today free from these regulations. There is nothing about Verizon's offering video programming that suddenly creates a need to regulate its other services.
- * Federal law limits the fees the county can collect to 5 percent of Verizon's *cable* revenues. Montgomery County's cable ordinance requires Verizon to pay 5 percent of its revenues on *all* services, including Internet service.
- * In addition, to secure a franchise, the county has demanded that Verizon pay an additional 3 percent of its revenues to cover the county's cable programs; provide free cable service to hundreds of government and private buildings around the county; pay hundreds of thousands of dollars to cover the county's consultants' and attorneys' fees; and provide additional cash or free services on top of all these other concessions. Federal law prohibits all of these demands.

* The county's contention that its actions are justified because it imposed the same requirements on Comcast is specious. Comcast's franchise provides that if the county negotiates an agreement with a new entrant that requires smaller monetary contributions, Comcast can renegotiate its agreement to match those terms. This is not a question of competitive equity, but of county officials being unwilling to part with the perquisites offered by a cable monopolist.

* The county does not need the money. It is projecting a surplus of roughly \$1 million for its cable fund in fiscal year 2007.

Montgomery County Is Enforcing Its Franchise Agreement With Comcast in a Way That Violates Federal Antitrust Law.

* Congress outlawed exclusive franchises in 1992. Prior to that, cable operators often offered perks over and above what the law required in order to win monopoly control of a market. The cable operator could then exploit its monopoly position to recoup the costs of these give-aways. Incumbent cable operators continue to employ this strategy to raise barriers to entry.

* The county has interpreted Comcast's franchise agreement to block the county from offering a franchise agreement to a Verizon on different terms. This halts competition and protects Comcast's monopoly. By entering into an agreement with Comcast that ensures the county will impose cost-prohibitive terms on new entrants, effectively blocking entry, the county has violated federal antitrust laws.

COMPETITION WILL BENEFIT MONTGOMERY COUNTY CONSUMERS

If allowed to compete in Montgomery County, Verizon's FiOS TV will introduce much-needed competition and create significant benefits for cable customers.

The Lack of Cable Competition Is Harming Montgomery County Consumers.

* ***Control of the Market ...*** Comcast currently controls the video market in Montgomery County. Roughly two-thirds of all households in the county, and roughly 75 percent of households that purchase cable or satellite service, subscribe to Comcast.

* ***Rising Prices ...*** Because of a lack of competition, Comcast has been able to raise prices in Montgomery County by 25 percent since 2000 – nearly three times the rate of inflation. From 2004-2005, Comcast raised prices by 6 percent.

* ***No Competition ...*** While satellite service is available, the FCC has determined that satellite is not effective at constraining price increases by cable companies.

Competition Can Constrain Comcast's Price Increases.

* ***Competition Works ...*** In its March 2006 report on video competition, the FCC found that in areas with real cable competition, monthly cable rates are 16 percent lower and customers pay 27 percent less per programming channel.

* ***Delay Costs Consumers ...*** Nationwide, the delay in wireline competition is creating economic losses of between \$8.2 billion and \$21.4 billion per year.

* *Montgomery County Consumers Are Paying a Huge Price ...* Thomas Hazlett, an economist at George Mason University who submitted a declaration in support of Verizon's case, concluded that the county's actions are costing residents more than ***\$725,000 per month***.

Verizon's FiOS TV: A Much-Needed Competitor in Montgomery County.

Customers who switch to Verizon will save money. Verizon's standard digital package costs \$28.65 less than the comparable package offered by Comcast in Montgomery County. A family in Montgomery County that switches to Verizon could save more than ***\$300 per year***.

Even customers who don't subscribe to FiOS TV will benefit from competition. In communities where Verizon has been allowed to compete, cable prices have dropped 28 to 42 percent.

* In Keller, Texas, the first location where FiOS TV began competing, Charter lowered its rate by \$16 per month or 28 percent.

* In Herndon, Va., Cox dropped its price from \$52.44 per month to \$30 per month after FiOS TV entered the market.

* In Temple Terrace, Fla., Bright House lowered its price from \$58.45 per month to \$36.33 per month.

Verizon carries the Mid-Atlantic Sports Network, which broadcasts Washington Nationals baseball games. This is just one of the many channels Verizon carries that Comcast does not.

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