

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Notice of Proposed Rulemaking)	
Appropriate Regulatory Treatment for)	CS Docket No. 02-52
Broadband Access to the Internet Over)	
Cable Facilities)	
_____)	

COMMENTS OF THE Washington Association of Telecommunications Officers and Advisors (WATOA)

The Washington Association of Telecommunications Officers and Advisors (WATOA) believes that local communities should be able to regulate certain aspects of cable companies in their provision of non-cable services, particularly with respect to customer service and privacy protection, as provided under the Cable Act.

1. Applicability of Section 631 of the Communications Act. (47 CFR 551) for Privacy Protection

WATOA agrees with the FCC’s conclusion in paragraph 111 of the NPRM that cable modem service is included in the definition of “other service” for the purposes of section 631 of the Communications Act. (47 CFR 551). This interpretation will provide important protections for customer service and customer privacy.

Preserving the applicability of the privacy provisions of 631 to cable modem service – including the ability of local governments to adopt and enforce privacy standards that are consistent with Section 631-- is consistent with and furthers the Commission’s goals of promoting: “the deployment of advanced telecommunications capability to all Americans in a reasonable and timely manner,” “the continued development of the Internet and other interactive computer services and other interactive media,” and preserving the “vibrant and competitive free market the presently exists for the Internet ...”.

One of the major factors inhibiting the growth of on-line commerce is the fear consumers have that their financial transactions, medical records and other personal information sent over the Internet are not adequately safeguarded. Providing the reassurance of an accessible venue for privacy concerns can mitigate this fear and help to ensure that the Internet fulfills its potential as an electronic marketplace.

In addition, the failure of the FCC to preserve the applicability of the strong privacy protections of Section 631 to cable modem service may result in an effective restriction of subscribers’ 1st amendment rights to free expression. Fears that personal opinions, voting records or other expressions could be subject to collection and use by unauthorized parties will inhibit the ability of the Internet to be a vibrant and free market for ideas and greatly curtail the ability of the medium to be an avenue for the active civic discourse essential to a democratic society.

The City of Seattle recently adopted several amendments its Cable Customer Bill of Rights (CCBOR) consistent with section 631, to protect the privacy of its cable subscribers. The CCBOR specifically extends these protections to cable modem service. Section 631 preserves the ability of local government to protect its citizens from potentially invasive practices by cable operators, and the FCC does not have the authority to deny local governments the right to adopt and enforce privacy standards consistent with Section 631. Cable modems should not become a tool for collecting personal information for the purpose of creating consumer

profiles based on a subscriber's personal interests or shopping habits. Once such profiles are created they would be very valuable to advertisers and others and the temptation to disclose such data would be great.

Section 631 provides a predictable regulatory framework consistent with Congress' intent to place a high priority on consumer privacy. It establishes the desired balance between the right to privacy of the consumer and the cable operator's legitimate business needs. The FCC must ensure that it does nothing to upset that carefully crafted balance.

2. Applicability of Section 632 of the Communications Act. (47 CFR 552) for Consumer Protection

WATOA believes that the Commission should preserve the ability of local franchising authorities to enact and enforce consumer protection and customer service standards regarding cable modem service. The classification as an information service should not remove this important service, often a local monopoly, from local customer service protection. Local jurisdictions have extensive experience working through customer service issues with cable operators and would provide a readily accessible venue for customer service issues, without adding another, distinct, customer service oversight for the cable provider.

For example, during the rapid transition from @Home service to @attbi last December, the Seattle Office of Cable Communications received almost 500 calls from dissatisfied customers complaining about the inability to reach customer service representatives, get on-line after hours of waiting, and failure to receive proper credits for service interruptions. There was no other place for these customers to turn. As a result of working with the City, Seattle's customers received more rapid attention and greater credits. For example, many disgruntled customers reported receiving a credit of \$5.15 for service outages, regardless of the length of time service was down. Due to Seattle's intervention, however, their customers received compensation for actual days out plus additional credit for violations of their Cable Customer Bill of Rights. The average award to Seattle customers was \$67, rather than \$5.15.

Even in more routine times, with an installed base of over 42,000 cable modem subscribers, cable modem customers have legitimate customer service problems that need support in a manner similar to the cable television customers.

In summary, WATOA believes that the FCC must support the authority of local governments to protect their consumers. Such authority is provided by the Cable Act which reflects Congress' intent to provide States and local governments the authority for enacting and enforcing any consumer protection law consistent with 47 (CFR 551 and 552.)

Respectfully submitted,

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