TESTIMONY OF MICHAEL WILLNER
PRESIDENT AND CHIEF EXECUTIVE OFFICER
INSIGHT COMMUNICATIONS

on

COMPETITION AND OVERBUILDS IN THE VIDEO MARKET

before the

SUBCOMMITTEE ON ANTITRUST,
COMPETITION POLICY AND CONSUMER RIGHTS
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
WASHINGTON, D.C.

FEBRUARY 11, 2004

I. INTRODUCTION

Mr. Chairman, Senator Kohl, members of the subcommittee, my name is Michael Willner. I am President and CEO of Insight Communications (Insight), the nation's ninth largest cable operator. My company owns and manages cable systems serving 1.4 million customers in Illinois, Indiana, Kentucky, and Ohio. I am also a Director of the National Cable & Telecommunications Association (NCTA) and serve on its Executive Committee. Thank you for inviting me to testify about the state of competition in the multichannel video market and how Insight is responding to competitive challenges posed by DBS and other competitors.

Many industry watchers do not realize the extent of competition in the multichannel video marketplace. Indeed, today's television market looks nothing like the one 10 years ago, when cable companies were the only multichannel video providers except for large backyard dishes and local broadcast stations. Back then, cable offered a one-way analog video service averaging 30-53 channels of local and national programming.[1] Today, as the FCC recently noted in its Tenth Annual Report to Congress, most consumers have a choice of at least three providers (Dish, DirecTV, and cable) offering hundreds of channels of television and digital services.[2] Some consumers enjoy even more options provided by alternative broadband service providers (BSPs), microwave/MMDS companies; and private SMATV systems serving apartment buildings and condominiums.

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1 *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*. FCC 04-5, MB Docket No. 03-172, released January 28, 2004, paragraph 18. (Hereinafter cited as the "Tenth Annual Report.")

2 Ibid, paragraph 5.

Direct Broadcast Satellite in particular has flourished as a competitor to cable since its launch in 1993, garnering more than 21% of the video market and driving cable's market share down from 95% in 1994 to 75% in 2004.[3] Along with increased consumer choice between competing providers has come a wide array of new entertainment and data services, including digital video, HDTV, high-speed access to the Internet, and cable telephony. The FCC's Tenth Annual Report notes that: "Cable television has, in fact, greatly evolved since the first report, providing [consumers with] more choice, greater flexibility, and more control."[4]

Insight is a leader in providing consumers with both video and non-video communications services and is one of many cable companies delivering on the promises of the 1996 Telecommunications Act. We are competing across the board in a wide range of services – and let me assure you that it is a fiercely competitive and aggressive marketplace.

II. INSIGHT COMMUNICATIONS

Insight Communications operates in dozens of mid-sized communities throughout Illinois, Indiana, Kentucky, and Ohio. Founded in 1985, Insight and its 3,200 employees offer 1.4 million customers a wide array of advanced cable services – including digital video, pay-per-view, high-speed Internet access, high-definition television (HDTV), digital video recorders (DVR), and digital telephony. As of September 2003, Insight passed 2,313,500 homes and provided basic cable service to 1,400,000 customers. Insight also has 383,700 digital cable customers, 208,500 high-speed Internet subscribers, and 49,300 telephone customers.

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[3] C-band satellite, MMDS, SMATV, and BSPs account for the remaining 4%. See MVPD chart on page 3.

[4] Ibid, paragraph 12.

III. THE VIDEO MARKET IS FULLY COMPETITIVE

Today, consumers can choose from a variety of multichannel video providers, including DBS, alternative broadband providers like RCN/Starpower, local telephone companies, and utilities. As a result of this competition, 24.9 million consumers (1 out of 4 video subscribers) now obtain multichannel video programming from someone other than their local cable operator.

Subscribers to Multichannel Video Program Distributors (MVPD), November 2003

	Subscribers (in Millions)	Percent of Total MVPD Subscribers
DBS	21.60	22.50%
C-Band	0.50	0.52%
MMDS	0.20	0.21%
SMATV	1.20	1.25%
Broadband Service Providers	1.40	1.46%
Non-Cable MVPD	24.90	25.94%
Cable	71.10	74.06%
Total MVPD	96.00	100.00%

Source: Kagan World Media, Kagan Media Money, December 16, 2003, p. 6; SkyTRENDS, www.skyreport.com; Nielsen Media Research.

DBS is a particularly effective competitor in the multichannel video market. It is available in all 50 states and offers hundreds of channels that include almost all the most popular and widely carried national cable networks, as well as some programming (such as DirecTV's exclusive NFL sports package) that is not carried by local cable systems. With the passage of the Satellite Home Viewer Improvement Act (SHVIA) in November 1999, DBS companies can now retransmit local broadcast signals into their market of origin ("local-into-local") – and they do so in the vast majority of markets.

In the face of competition from DBS, cable's market share has dropped from 95% ten years ago to under 75% today. In 2003, the number of DBS subscribers jumped from 19.4 million to 21.1 million – an 8.8% increase. DirecTV alone has more subscribers (12 million) than all cable companies except Comcast and is the second largest multichannel video provider in the United States. EchoStar, the second-largest DBS provider, has more customers than all but two cable companies – Comcast and Time Warner. With DBS and other video providers, consumers today have real choices in the video market – and they are exercising those choices.

The FCC remarked upon this phenomenon in its Tenth Annual Report to Congress:

> Ten years ago, cable operators served almost 100% of the nation's MVPD subscribers. Today, most consumers have the additional choice of two national DBS providers, and cable's share of the MVPD market has fallen to approximately 75% of all MVPD subscribers. Competition in the MVPD market has been accompanied by technological innovation and the introduction of new products and services. In 1994, most cable operators offered 30 to 53 analog video channels. Today, after investing tens of billions of dollars to rebuild and upgrade cable systems, cable operators offer, on average, 70 analog video channels, 120 digital channels, high-definition television programming, video-on-demand, and non-video services, such as high-speed Internet access service, and telephone service.[5]

DBS's residential subscriber penetration on a state-by-state basis reveals the breadth of DirecTV and EchoStar's competitive strength. As of July 2003, direct-to-home penetration exceeded 30% in four states, 20% in 29 states, and 15% in 40 states.

[5] Ibid, paragraph 18.

States with Direct-To-Home (DTH) Dish Penetration
Of Fifteen Percent or More (July 2003)

State	Penetration Rate	State	Penetration Rate
Vermont	35.78%	**Texas**	22.25%
Montana	33.96%	**South Carolina**	21.70%
Wyoming	31.36%	**Virginia**	21.34%
Idaho	30.91%	**Arizona**	21.18%
Utah	29.99%	**Oregon**	20.93%
Mississippi	28.12%	**South Dakota**	20.71%
Missouri	27.25%	**Wisconsin**	20.53%
Arkansas	26.78%	**Minnesota**	20.39%
New Mexico	25.66%	**Maine**	20.23%
Georgia	24.93%	**California**	19.91%
Colorado	24.49%	**Nebraska**	19.61%
Oklahoma	23.77%	**Kansas**	18.91%
Indiana	23.08%	**Washington**	18.62%
Kentucky	22.97%	**Alaska**	18.46%
North Carolina	22.97%	**Michigan**	18.32%
West Virginia	22.91%	**Florida**	17.66%
Alabama	22.74%	**Illinois**	17.61%
North Dakota	22.49%	**Nevada**	16.55%
Iowa	22.35%	**Louisiana**	15.61%
Tennessee	22.28%	**Ohio**	15.35%

Source: SkyTRENDS SkyMAP, July 2003; www.skyreport.com; TV Household data from A.C. Nielsen.

DBS companies are not only big and getting bigger, they are now vertically integrated. For example, on December 19, 2003, the FCC approved transfer of DirecTV's DBS and other licenses (including PanAmSat) from General Motors/Hughes to News Corporation (NewsCorp). DirecTV offers more than 825 channels of programming, including local broadcast channels in 64 markets. NewsCorp, the global media corporation, operates the Fox broadcast network, 35 TV stations, 10 national cable networks, 12 regional networks, and other program rights and interests. The DirecTV-NewsCorp deal is valued at $6.6 billion.

Because "the proposed transaction is likely to result in anticompetitive harms" in some areas, the FCC conditioned the merger in four ways: (1) NewsCorp is barred from withholding any satellite-delivered cable network under its control from any cable operator or satellite carrier until at least October 2007; (2) NewsCorp must submit disputes over regional sports programming contracts to a single commercial arbitrator; (3) for systems with fewer than 5,000 subscribers, the FCC basically requires NewsCorp to elect must carry for its stations – it may not seek cash or carriage of other than its broadcast signal; and (4) DirecTV must provide local channel services in an additional 30 DMAs beyond what had been previously funded, projected, or planned by Hughes/DirecTV.

In addition, telephone companies are reentering the video market in partnerships with DBS. The RBOCs in particular – with over 90 million customers – are engaging in an intense battle with cable operators by announcing several joint marketing partnerships: (1) SBC Communications and EchoStar; (2) Qwest Communications and both EchoStar and DirecTV; (3) BellSouth and DirecTV, and (4) Verizon and DirecTV. In the last partnership, announced on January 29, 2004, customers can order all Verizon and DirecTV services by making a single call to Verizon. Discounts are available to new DirecTV subscribers and to Verizon customers who buy packages of local, long distance, and data services. DirecTV will install its services and provide follow-up customer care for its customers acquired through Verizon.

IV. OVERBUILDS

Only 433 of the 33,485 cable communities nationwide have two competing franchised wireline providers. Indeed, in its October 2003 Report, GAO reported that "wire-based" competition to cable is limited to about two percent of US markets. However, many of these franchised overbuilders have never deployed their services or are trying to avoid bankruptcy. Several more are already out of business. Despite the expectation in 1996 that telephone companies and other wireline overbuilders would become the main competitors to cable, the GAO found that "in recent years, DBS has become the primary competitor to cable operators in the subscription video industry."[6]

Insight faces ubiquitous competition from Dish/EchoStar and DirecTV/NewsCorp in all of its markets. Insight also faces wireline overbuilders in two of our cable systems: Evansville, Indiana, and Columbus, Ohio. In those systems, some areas are overbuilt and others are not. However, where the services are similar, so is the pricing. For example, in Evansville, Insight charges $35.95 for basic/expanded basic compared to $32.99 for TotalLink SIGECOM. In Ohio, WideOpenWest, which purchased overbuild systems from Ameritech (americast®), charges $38.50 while Insight charges $34.40.

V. CABLE OPERATORS HAVE INVESTED ALMOST $85 BILLION IN THEIR SYSTEMS AND UPGRADED THEIR SERVICE OFFERINGS IN ORDER TO COMPETE WITH DBS AND OTHER VIDEO PROVIDERS

With the emergence of DBS in 1994, cable operators embarked on a massive rebuild of their systems, adding digital technology and replacing hundreds of thousands of miles of coaxial cable with fiber optics. Helped by passage of the Telecommunications Act of 1996 and the prospect of deregulation in March 1999, cable operators were able to attract investors and raise billions of dollars in private risk capital. Since 1996, cable operators have invested almost $85 billion in system upgrades – <u>more than $1,200 for every cable customer.</u>

[6] *Issues Related to Competition and Subscriber Rates in the Cable Television Industry*. United States General Accounting Office, October 2003. GAO-04-8: page 9. Hereinafter, "October 2003 Report.".

The difference between the cable industry's investment in infrastructure before and after the 1996 Act speaks for itself. From 1992 to 1995, annual investment in plant and facilities averaged $3.6 billion. Since 1996, annual capital spending has more than tripled, averaging $10.9 billion a year.

Cable operators like Insight now provide consumers with a broad array of interactive digital video services, high-speed Internet access, and – in an increasing number of communities – competitive local telephone service. For example, over 21.5 million cable customers purchase optional "digital tiers" which include up to 260 additional channels of video programming and CD-quality music. Cable operators also use digital capacity to offer high-definition programming created by cable networks and broadcast stations. As of December 1, 2003, cable operators offering HDTV passed 70 million TV households, reaching 96 of the top 100 television markets and 143 of all 210 DMAs. We expect these numbers to grow in 2004.

Insight already offers HDTV service in communities serving over 95% of our subscribers. Insight offers between 4 and 15 HD signals in each community, including local digital broadcast signals and/or satellite-delivered HDTV program networks.

Cable operators have also used their new digital capacity to become the leading providers of an entirely new service – high-speed broadband Internet access. As of September 30, 2003, 15 million U.S. households had cable modems. Moreover, high-speed cable modem service is today available to more than 85% of the nation. In response to cable modems, local telephone companies introduced residential DSL – their own high-speed Internet service. Cable modem service and DSL now compete vigorously in most markets.

In addition, cable operators are fulfilling their promise to give consumers a full-scale, facilities-based alternative to their local telephone company. Over upgraded broadband facilities, cable operators currently provide phone service to approximately 2.5 million residential customers; Insight provides residential telephone service to about 50,000 customers. Many companies are now launching Internet-based "Voice over IP" (VoIP) service, like Time Warner Cable in Portland, Maine; Cablevision in Long Island, New York; and Charter in Wausau, Wisconsin. These offerings feature unlimited local and long distance service, plus other calling features, for about $40 a month. Cable's phone services are further spurring incumbent telephone companies to offer competitive pricing plans and deploy VoIP.

But competition is not the only benefit flowing from cable's $85 billion capital investment in new facilities and technology. As Chairman Powell noted on January 28, 2004:[7]

> … it may be that the greatest benefits stemming from these investments of DBS and cable operators over then last ten years has been the <u>expanding diversity of programming, ideas and opinions</u> that come across our television screens on a daily basis. Increased infrastructure investment has meant increased channel capacity and with it more diversity. The thirty channel systems of a decade ago are today cable and satellite systems offering literally hundreds of channels. It is unquestioned that this increased channel capacity has allowed the biggest of our nation's media companies to get bigger, but it is equally undeniable that it has also provided opportunities for new, independent cable networks and programmers – sparking intense competition in the video programming market as well.

Indeed, the FCC's Tenth Annual Report notes that there are 61 new networks planned in addition to the 339 national cable program networks already in existence (Appendix C).

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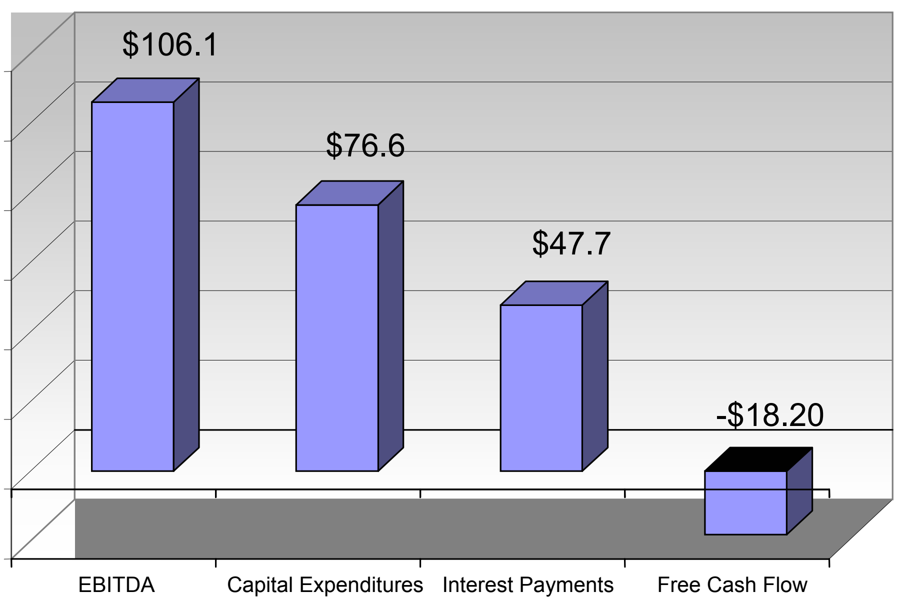
7 FCC-04-5, *Separate Statement of Michael K. Powell*, paragraph 4, emphasis added.

VI. PRICES

A. Cable Reinvests in Upgraded Equipment and Service

From 1996 – 2002, total cable operating expenses, capital expenditures, and interest exceeded total cable industry revenues by more than $18 billion. As documented in a July 2003 analysis by the Bortz Media and Sports Group Inc., the cable industry during those six years spent nearly 75 cents of every dollar of cash flow[8] on upgrading infrastructure to offer new and improved services. When interest obligations are also taken into account, the cable industry's "free cash-flow" (i.e., funds available for distribution to investors and/or debt reduction) was actually negative from 1996 – 2002 (see following chart).

Cable Industry Capital Re-investment, 1996-2002 (in billions)



Source: Bortz Media estimate based on Kagan World Media, Broadband Cable Financial Databook 2000 and 2002, and company reports.

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8 Earnings before interest, taxes, depreciation and amortization (EBITDA).

As the Bortz study concluded, "the immediate result of this massive re-investment has been the expansion of system bandwidth, with this added capacity then enabling cable operators to very quickly make available new services such as digital video and high-speed Internet access to the vast majority of cable customers."[9]

B. Price Increases Reflect Cost Increases, Which Exceed Inflation

The principal reason that cable's prices are rising faster than inflation is that its costs are increasing at a rate far greater than inflation – but so have the quality and value of the services cable provides. Despite this fact, some still suggest that increasing cable prices indicate a lack of competition in the video marketplace. There is no economic basis for this contention:

> It is not true … that firms with higher market power would be expected to demonstrate a higher growth rate of prices over time than would firms with lesser market power, all else equal. The latter proposition, though often asserted or implied in the popular press and similar venues, is not supported by economic logic. Similarly, one would not expect firms with high market power necessarily to demonstrate higher growth rate of prices over time than the rate of inflation, nor, conversely, can one expect that a firm with price growth faster than the rate of inflation has an above-average level of market power.[10]

One does not need an economist to discredit the notion that rising prices for cable service indicate a lack of competition in the video marketplace. As the facts demonstrate, cable operators face vigorous competition from the two national DBS companies as well as from other video service providers. Indeed, it is precisely because cable operators are facing growing

9 *Reinvesting in America: An Analysis of the Cable Industry's Impact on the U.S. Economy*. Bortz Media and Sports Group, Inc., July 2003: page 16. (Hereinafter cited as the "Bortz Study.")

10 Statement of Dr. Debra J. Aron, Director, LECG and Professor, Communications Systems, Northwestern University, attached to NCTA Comments to the Federal Communications Commission in MB Docket No. 02-145 (July 29, 2002).

competition from DBS that they make the costly investments in facilities and service (which cause their prices to rise). And it is precisely because of this competition that cable operators have little choice but to pay – and pass through – programming cost increases in order to secure the content demanded by their customers.

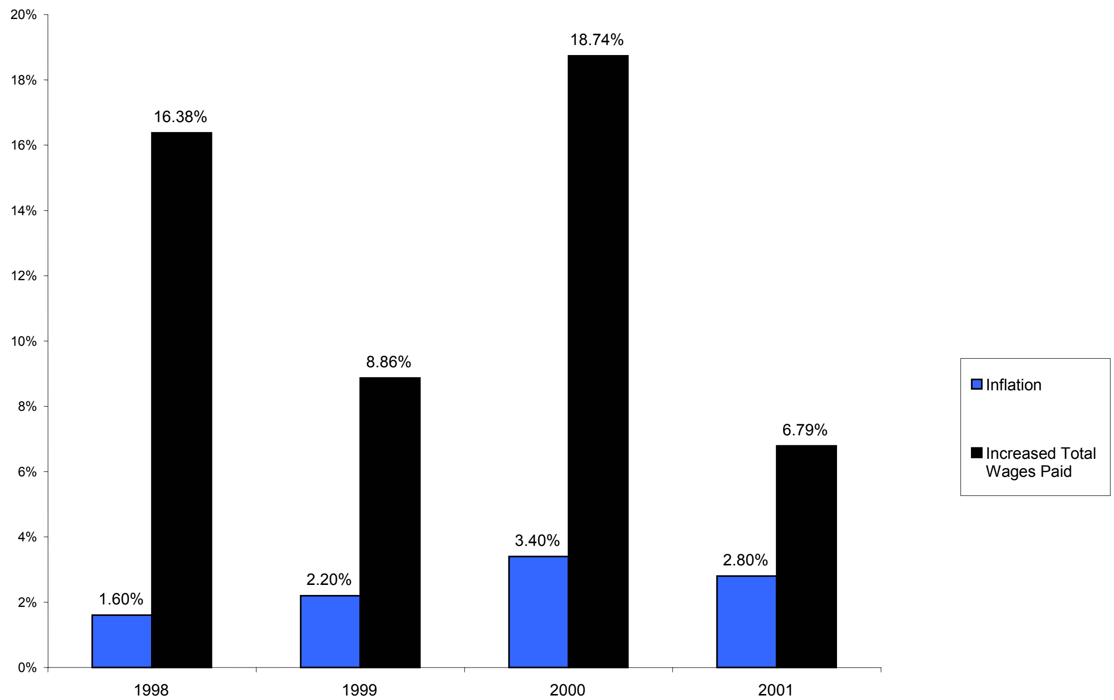
In short, the best explanation for cable price increases is the most mundane – prices are a function of costs. Cable operators' costs have increased sharply over time – in many cases, as the result of efforts by cable operators to bring more value to consumers, but sometimes for reasons beyond the operators' control.

C. Cable's Labor Costs Have Sharply Increased

As noted by the GAO in its October 2003 Report on competition and cable rates,[11] another factor that explains cable price increases is the investment by cable operators in labor and customer service. As cable operators have improved the size, proficiency, and training of their workforce to implement system upgrades, introduce new services, and offer 24/7 customer service, cable's labor costs have consistently risen faster than inflation. As the chart below demonstrates, from 1997 to 2001, total wages paid by "cable and other pay TV services" rose, according to the Bureau of Labor Statistics, by 60.6% – more than 15% per year. This is roughly five times the rate of inflation.

[11] GAO-04-8: page 26.

Increase in Annual Wages versus Inflation



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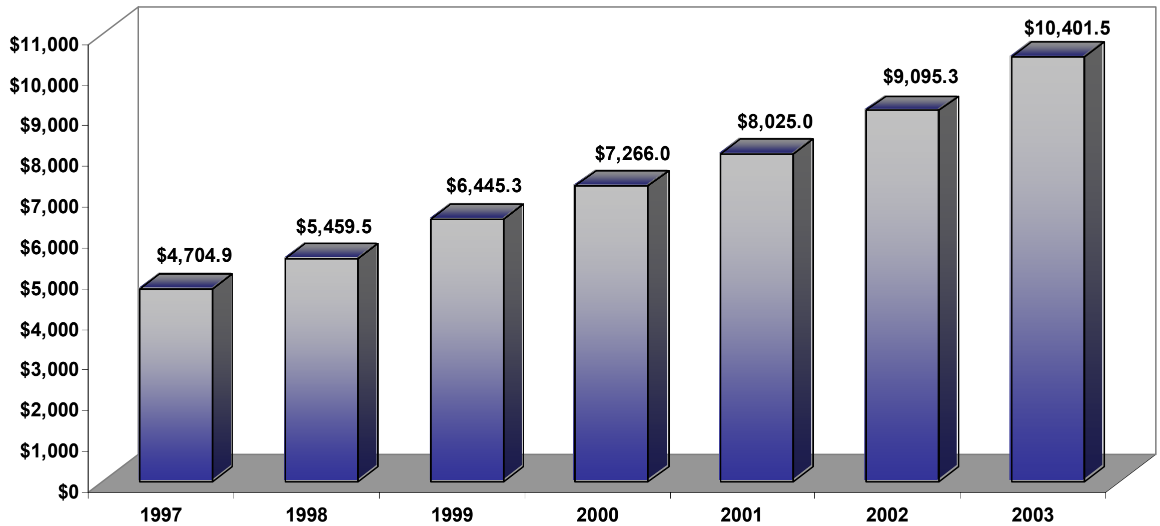
Source: Bureau of Labor Statistics; Total Wages Paid for SIC 484 (Cable and Other Pay TV Services), 1997-2001, and CPI-U for All Items, 1997-2001

D. Increased Expenditures by Cable Networks Have Substantially Enhanced the Value of Cable Programming

Although the number of channels of programming on expanded basic tiers is no longer increasing significantly, costs associated with many existing channels of programming are increasing faster than inflation. Simply put, the underlying costs of creating programming are increasing at a rate greater than inflation.

Basic Cable Network Expenditures 1997 – 2003
For Original Programming and Program Acquisition (in Millions)



Source: Kagan World Media, *Economics of Basic Cable Networks*, 2004

Between 1997 and 2003, expenditures by basic cable networks for original programming and program acquisition increased by 121% – an average of 20% per year – from $4.7 billion to $10.4 billion. As part of their expanded investment in programming, cable networks have also increased their commitment to original programming. Between 1992 and 2003, spending on new content grew from $913 million to $5.4 billion. Original programming expenditures now represent 52% of cable networks' total programming investment and 70% of the programming aired by cable networks is made specifically for cable.[12]

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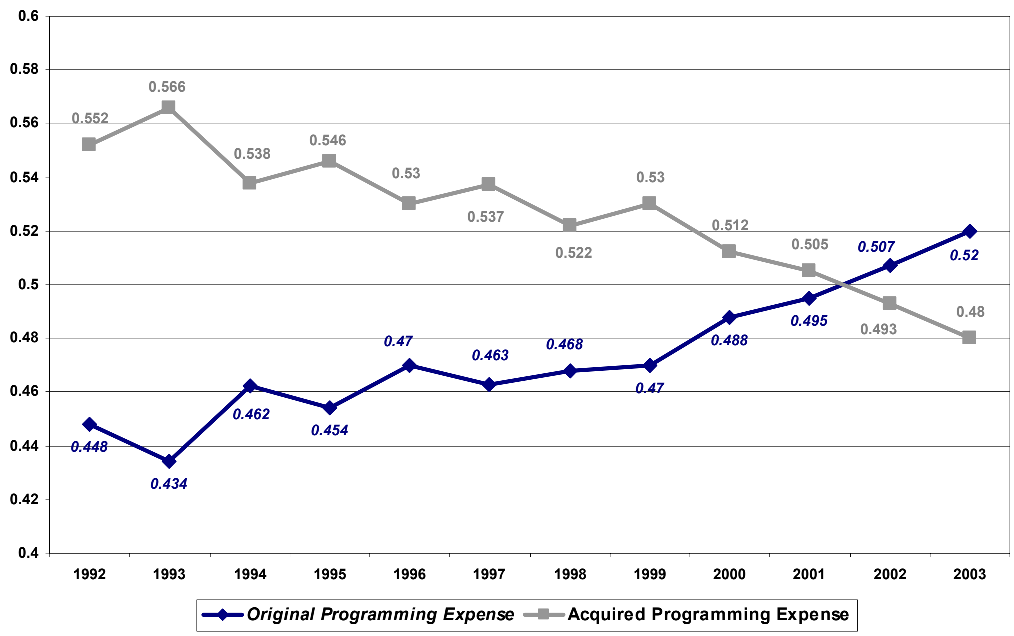
12 Cabletelevision Advertising Bureau (CAB).

Percentage of Programming Expenditures
Original versus Acquired, 1992 – 2003



Source: Kagan World Media, *Cable Program Investor*, September 12, 2003, pp. 12-14.

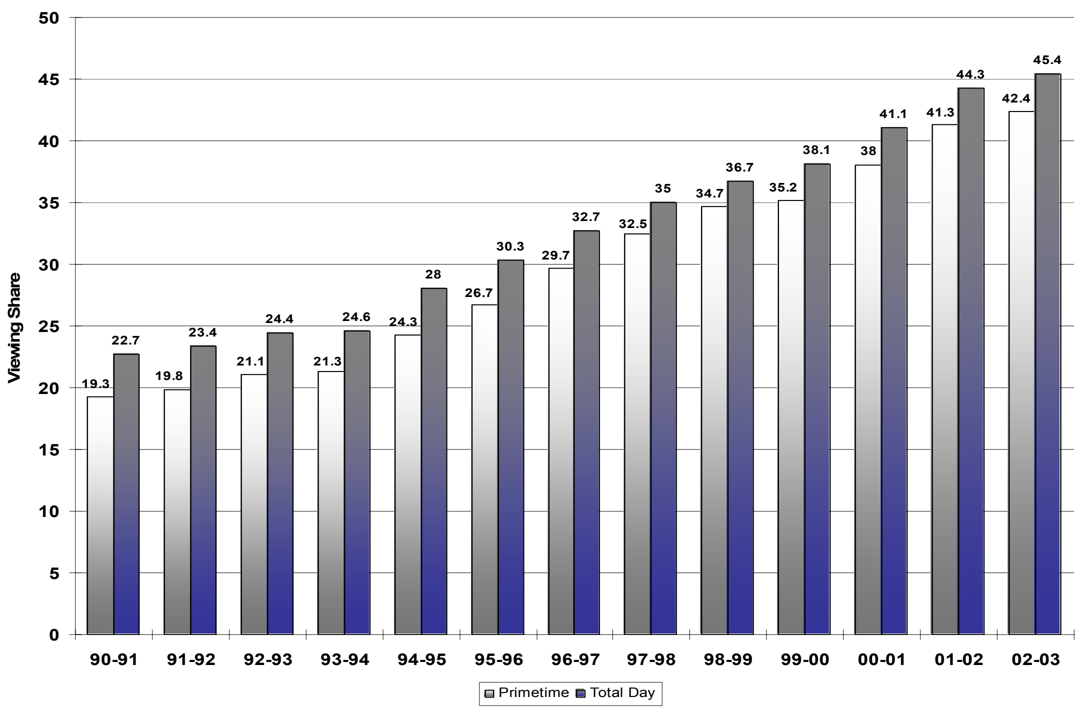
The cable networks' increased programming investments have resulted in original, compelling, and high-quality content that is attracting more viewers than ever before. Over the past ten years, the cable networks' viewing shares have increased steadily in both primetime and daytime. During the full 2001/2002 television season,[13] more people watched ad-supported cable during primetime than the seven national broadcast networks combined.[14] Cable repeated this achievement in the 2002/2003 TV season, with ad-supported cable networks finishing the

[13] The 2001/2002 full TV season ran from September 24, 2001 to September 22, 2002.

[14] "A TV First: Ad-Supported Cable Wins Primetime Viewership Race for Entire 2001/2002 Season," CAB Press Release, September 24, 2002.

season with a 49.6 share, up about 4% from the previous season. By comparison, the seven broadcast networks continued their decline, finishing the 2002/2003 season with a 45 share, down almost 4%.

Basic Cable Network Viewing Shares
Primetime and Total Day
1990/91 – 2002/03



Source: CAB analysis of Nielsen data in Total Television Households (October – September).

Moreover, cable networks continue to win a record number of industry awards. Ten cable networks took home a total of 39 Primetime Emmy awards presented by the Academy of Television Arts & Sciences in 2003. HBO topped all other networks with 18 awards; TNT collected six; Comedy Central took home three; A&E, Cartoon Network, Discovery Channel, SCI FI and USA each won two; and Bravo and Showtime each received one. In April 2003, cable networks won nine George Foster Peabody Awards out of 31 awards granted. Similarly, in

January 2004, cable networks took home a record nine Golden Globe Awards, up from eight in 2003.

In its October 2003 Report, GAO confirmed that higher programming costs contribute significantly to cable price increases. GAO found that of the 79 cable networks it analyzed, "expenditures by these networks to produce programming increased from $6.47 billion in 1999 to $8.90 billion in 2002, or by about 38 percent."[15] In many cases, increases in cable program costs reflect decisions of cable networks to <u>upgrade</u> the quality of their programming. Just as cable operators have incurred significant expenses to improve their facilities, many cable program networks have sought to enhance the value of their programming to cable operators and consumers by producing or purchasing more attractive – and more expensive – programming.

As GAO pointed out, "competition among networks to produce and show content that will attract viewers has become more intense."[16] This competition has bid up the cost of key inputs (such as writers and producers) and has spurred investment in programming. GAO highlighted increased original content and improved quality of programming as a major factor in increasing programming costs. It found that costs for program networks have gone up due to the increased costs of sports rights and greater competition among networks for the broadcast rights of existing programming.[17] Since both the quantity and quality of cable services are continually expanding, cable's value to subscribers is increasing in measurable ways.

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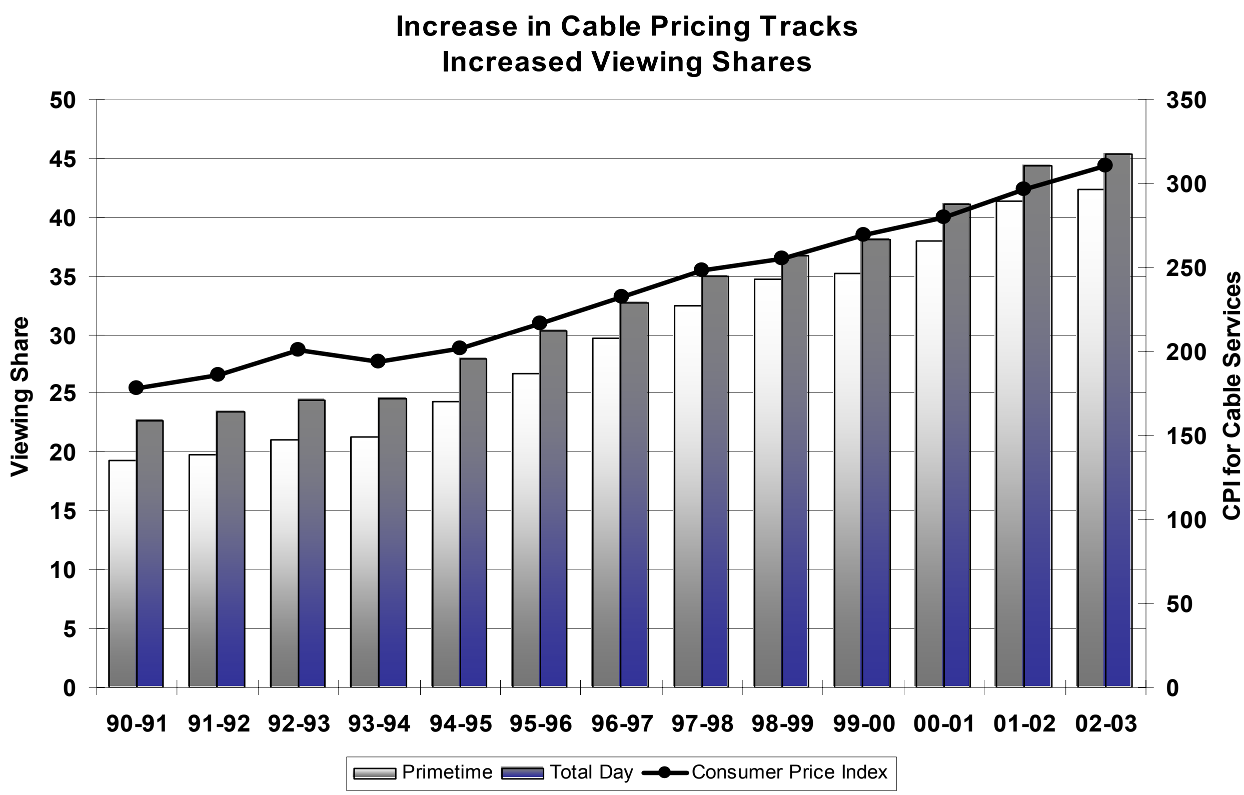
[15] GAO-04-8: page 24, citing data from Kagan World Media.

[16] Ibid: 23.

[17] Ibid (based on interviews with cable network executives).

A 2003 study by Michigan State University Professor Steven Wildman shows that a useful measure of value is the price paid by cable customers on a usage basis: [18]

> the amount of time the average cable household spent watching the ad-supported cable networks that predominate in cable systems' expanded basic packages increased by 43 percent – from 24 hours and 22 minutes per week to 34 hours and 44 minutes per week. Even more so than the increases in cable viewing shares that are more commonly cited, this increase in time spent watching cable programming is direct evidence of an increase in the value of basic cable programming to cable subscribers.



Source: CAB, Cable TV Facts 2002, US Department of Labor, Bureau of Labor Statistics, Consumer Price Index Chart. Reported viewing shares are for advertising supported cable, Oct-Sept each year and CPI is for September of each year.

[18] Steve Wildman, "Assessing Quality-Adjusted Changes in the Real Price of Cable Service," September 10, 2003, page 13.

Specifically, Professor Wildman established a price per viewing hour (PPVH), which is the price cable subscribers pay for service divided by the number of hours spent watching programs on basic cable networks. When the price of basic cable service is adjusted for inflation, Professor Wildman concludes that the real price paid for an hour of cable viewing has fallen by 15.2%."[19] Cable service costs more, in part, because of increased programming costs, but consumption of the product has increased despite the higher price – a clear indication that the marketplace is working to increase and maximize consumer welfare.

VII. CABLE CONTRIBUTES SIGNIFICANTLY TO THE NATIONAL ECONOMY

In scrutinizing competition and pricing, one should remember that the cable industry is more than a key provider of entertainment and information to the American consumer – it has a significant and rapidly growing impact on the U.S. economy. Through the aggressive re-investment of capital over the past eight years, the cable industry has put in place a broadband infrastructure that supports a wide range of services provided to the American consumer. In the process of making this infrastructure investment to provide what the American public wants, the industry has exerted a substantial, positive economic impact.

As of 2002, the cable industry (directly and indirectly) accounted for more than 1.1 million U.S. jobs representing over $42 billion in personal income.[20] Gross economic output attributable to the industry amounts to more than $173 billion. Other measures of the industry's positive economic impact include:

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19 Ibid.

20 Bortz Study, page 10.

- Cable operator revenues in 2002 totaled more than $48 billion, providing direct employment to 176,000 people. Annual compensation to cable industry employees totaled $8.9 billion.

- These cable industry employees can be found in all 50 states, reflecting the overwhelmingly local character of an industry comprised of close to 10,000 local cable systems.

- Cable industry suppliers provide another 131,000 cable-related jobs, representing personal income of $7.3 billion annually.

- Since 1990, direct and indirect employment attributable to the cable industry has more than doubled, increasing by more than 570,000 jobs. <u>This growth amounts to nearly three percent of all net new jobs created by the U.S. economy over this 12-year period</u>.

- Cable's economic impacts are spread throughout all major sectors of the U.S. economy. The largest impacts are in the information and manufacturing sectors, each of which is critical to both the growth and the overall health of the economy.

VIII. CONCLUSION

The video market is now fully competitive. Multiple video providers vie for customer loyalty, each trying to provide unique new products while trying to outdo those provided by their competitors. As a result of this competition, a wide new array of services – both video and non-video – is available to consumers over alternative broadband platforms. This is exactly what Congress intended when it passed the Telecommunications Act of 1996.

Eight years ago, some expected wireline overbuilds to become the main competitor to incumbent cable operators. Instead, satellite distribution succeeded in that role – but that does not mean that consumers don't have a meaningful choice in the multichannel video marketplace. As it turned out, satellite technology developed very quickly in the mid-1990s and its cost infrastructure became far more efficient than overbuilding entire communities with a second cable system. Even though wireline overbuilds are not widespread, I still wake up each and every morning thinking about my highly competitive business in every single market. There is no difference in how we compete whether we have two competitors or three.

The cable industry's massive, nationwide investment in upgraded facilities, new services, and higher quality programming has caused prices to rise faster than the rate of inflation. But it has also brought consumers greatly enhanced value. This is the inescapable conclusion of both the October 2003 GAO Report and the FCC's Tenth Annual Report to Congress on the status of competition in the video programming market. As FCC Chairman Michael Powell noted:

> Over this past decade Americans have responded and taken advantage of the increased competition, investment, innovation and diversity in the pay-television and programming markets. More Americans pay for television today than they did a decade ago. Today, 85% of television households (94.1 million households) pay for television, as compared to 63% of TV households (60.3 million households) in 1993. As more diverse and higher quality programming has emerged on cable and satellite systems, more people are watching. For the second year in a row (and only the second time in history), cable programming networks collectively brought more viewers to their channels throughout the day than did the seven broadcast networks and in primetime, cable networks brought in a viewing share of over 50% of all television viewers (vs. 44.7% of the seven networks). The shift in viewing should come as no surprise as the quality of cable programming has also been recognized as award nominations and wins continue to reach new heights for cable programming.[21]

Both the GAO and the FCC have confirmed the existence of a highly competitive multichannel video market. It is an environment where consumers enjoy an increasing choice of providers, programming, and services. It is also a market where cable has been investing heavily since 1996 and where regulation would deter new investment while depriving consumers of next-generation services.

Thank you for the opportunity to present my views. I would be glad to answer any questions you might have.

[21] FCC 04-05, *Separate Statement of Michael K. Powell*, paragraph 7.