

On Thursday, June 13, MAP won an important victory at the Federal Communications Commission (FCC).

At issue was a critical rule, called the "Program Access Rule," that prohibits cable companies from entering into exclusive deals with affiliated program networks or otherwise depriving competitors of affiliated programming. In other words, under this rule, AOL Time Warner cannot prevent its affiliate CNN from selling programming to competitors such as DirecTV.

Congress passed the Program Access Rule as part of the 1992 Cable Act. Congress expected vigorous competition, rather than consolidation, as a result of the 1992 Cable Act, and so had the provision sunset after 10 yrs. Congress instructed the FCC to extend the rule, however, if the FCC found it necessary to do so to protect competition and diversity of voices in the video market.

On Thursday June 13, the FCC voted 3-1 to extend the program access rules 5 years (Commissioner Abernathy (R) dissented). This will ensure that what competition exists in the cable and DBS industry continues to grow.

Unfortunately, the fight is not yet over. It is very likely that the cable industry will either seek reconsideration from the FCC or seek to have the FCC's decision overturned by the DC Court of Appeals. If that happens, MAP will continue to defend the rule as necessary to promote diversity of voices in the media and foster competition.

MAP issued the following statement for the press after the FCC issued its decision:

MAP HAILS FCC ACTION EXTENDING "PROGRAM ACCESS" LAW; DECISION PROTECTS ACCESS TO DIVERSE CABLE, DBS PROGRAMMING.

Statement of Media Access Project on the Federal Communication Commission's decision to extend the rules prohibiting cable companies from using affiliated programming networks in an anti-competitive manner (the "Program Access" Rules):

"Today, the FCC has recognized that the "Program Access" provision passed by Congress in 1992 continues to serve the vital purpose of promoting and protecting access to essential programming by competitors to cable companies. It proves that the FCC understands that -despite gains from DBS and over-builders - the dominant cable companies can still crush would-be competitors by abusing their market power. As the FCC recognized today, regulation is not inherently the antithesis of the free market; regulation can make competition possible by preventing anti-competitive behavior and saving the American people from the effects of market failure.

In 1992, Congress passed the "Cable Consumer and Competition Act of 1992." That law included a provision prohibiting cable companies from denying their programming -such as HBO and CNN - from potential competitors such as DBS and "over-builders" such as StarPower (RCN). Congress scheduled the prohibition to sunset after 10 years, but required the FCC to extend it if the FCC found the law still necessary to preserve competition and diversity of programming voices.

"Hopefully, as the FCC examines media ownership rules under consideration in other proceedings - the national cable ownership limit, the newspaper-broadcast cross-ownership prohibition, and a host of other rules remanded by the D.C. Circuit - it will remember these lessons. Today's ruling gives us hope that the FCC will fairly consider the evidence submitted in those proceedings and act to protect the public interest and foster competition, not simply eliminate safeguards in the name of 'deregulation.'"