

SOUTH CAROLINA CABLE TELEVISION ASSOCIATION NEWSLETTER

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TELEVISION CHANNEL BLOCKING BILL

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Senate Bill 598, the “Television Programming Protection Act” requires cable and video providers using digital technology to “completely” block all video and audio from any channel not purchased by the consumer at no charge. For those using analog technology, the operator must provide notice to its customers that upon request the provider will block all video and audio on any channel that the subscriber has not purchased at no charge to the subscriber within 5 days of the request. The notice may be given by a bill insert, separate mailing or electronically. The blocking deadlines will not apply if the provider is unable to comply due to circumstances beyond the provider’s control.

Operators intending to deliver channels on a promotional basis must notify the customers in advance that the signal can be blocked. If the customer does not request blocking, the promotional channel can be delivered.

If there is an equipment failure which allows the blocked channels to be transmitted and the operator uses digital technology, the provider must immediately block the channels. If the operator uses analog technology, the operator has 48 hours after notice from the customer to repair the equipment. These time frames do not apply if the provider is unable to comply with them due to circumstances beyond the provider’s control.

The bill was approved by the Judiciary Committee on April 3, 2007, and sent to the Senate where it is expected to pass. Its fate in the House is less certain since there is no companion legislation and no interest group supporting it. It is expected to be referred to the House Labor, Commerce and Industry Committee and then to the Public Utilities sub-committee.

STATE-ISSUED CERTIFICATE OF FRANCHISE AUTHORITY

House Bill 3396 which revises the State-Issued Certificate of Franchise Authority Act was signed by the Governor on March 30, 2007. This AT&T backed bill amends the Competitive Cable Services Act to add the defined terms “video service” or “video service provider” where “cable service” or “cable service provider” is used. This Act broadens the coverage of the Franchise Act to capture companies competing with cable companies.

As of April 3, 2007, the South Carolina Secretary of State has issued 18 certificates of franchise authority. The Secretary of State intends to begin posting the certification information on its website in the near future. Following is a summary of the certificates issued:

<i>Company</i>	<i>Areas</i>
ATLANTIC BROADBAND	Snelling, Fairfax, Barnwell, Williston
BERKELEY CABLE TV, INC.	Moncks Corner
BROADBAND EXPERIENCE	Central, Pickens
d/b/a FAMILY VIEW CABLEVISION	
CATAWBA, INC.	City of Rock Hill
CHARTER COMMUNICATIONS, LLC	Greenville County, Pickens County, Union County, Union, Cherokee County
CHESNEE COMMUNICATIONS	Cherokee County, Spartanburg County, Chesnee
COMCAST OF CAROLINA	Goose Creek, Dorchester County
HARGRAY CATV CO.,INC.	Jasper County, Estill, Hampton
HOME TELECOM	Goose Creek
MANAGED SERVICES INC.	Jasper County, Berkeley County, Richland County, Horry County
NORTHLAND CABLE TELEVISION	West Union, Pickens County
PASSPORT COMMUNICATIONS	Fort Mill
PINE TREE CABLEVISION	Lamar, McBee, Cottageville, Kershaw County, Bamberg County, Orangeburg County
TECHCORE CONSULTANTS II	Orangeburg County, Holly Hill, Ehrhardt, Bowman, Eutawville, Dorchester County
TIME WARNER ENTERTAINMENT	Myrtle Beach, Conway, Surfside Beach, Sumter, Sumter County,
ADVANCE/NEWHOUSE PTRSHP	Richland County, Columbia, Forest Acres, Lee County, Quinby
TIME WARNER ENTERTAINMENT	
ADVANCE/NEWHOUSE PTRSHP	Clover
-CHARLOTTE DIVISION	
TIME WARNER NY CABLE, LLC	Dillon County, Nichols, Bluffton, Hardeeville, Jasper County
YRT2, INC	Greenville, Greenville County, Berkeley County, Dorchester County, Summerville, Columbia, Horry County, Myrtle Beach

Eligible Telecommunications Carrier Update

The Public Service Commission held a workshop on October 12, 2006, in the rule-making proceeding to determine whether multiple eligible telecommunications carriers (“ETCs”) should be authorized in South Carolina and to develop a single set of eligibility standards for ETC designation. ETC status allows local telephone companies to receive Federal Universal Service Fund (“USF”) support. The Commission filed proposed regulations governing the designation of ETCs for the General Assembly’s consideration. The Commission also scheduled a workshop for May 25, 2007, to hear comments on requirements for annual certification of ETCs.

SC Universal Service Fund – Docket No. 1997-239-C 2007 Docket - Modifications to Guidelines

The PSC originally scheduled a hearing for Thursday, April 19, 2007, to consider proposed modifications to the Commission's Universal Service Fund Guidelines. After several parties requested that the hearing be cancelled and/or some clarification be given regarding the issues to be discussed, the Commission issued a directive holding the hearing in abeyance and requesting that parties identify to the Commission by April 3, 2007, specific issues which should be explored. The Cable Association and several other parties filed a joint submission requesting that the Commission take the following actions: (1) make changes in the USF Guidelines to ensure that companies receiving subsidies from the USF are not over-recovering; (2) revise the Guidelines to ensure that carriers of last resort are obtaining their USF subsidies based on current cost information; (3) revise the Guidelines to address the issue of deregulated bundled and contract service offerings; and (4) revise the Guidelines to clarify that the explicit subsidies received from the USF are received on a per line basis.

BellSouth indicated that wholesale modifications should not be considered during the pendency of the appeals of the USF Orders and suggested that the Commission only address conforming the USF Orders and Guidelines to Act 175 which established the Office of Regulatory Staff. BellSouth also suggested the Commission address whether administrative changes should be made to reduce the lag between the time period addressed by the revenue that is reported and the implementation of the new assessment factor. United Telephone indicated that the Commission should consider three external factors that could potentially impact the state USF: Guidelines for Designation as Eligible Telecommunications Carrier, the Missoula Plan and its impact; and

pending S.C. Senate bill 464 which would require major modifications to the USF if it passes the General Assembly. United proposes waiting until the current legislative session ends before making any changes to the Guidelines.

The South Carolina Telephone Coalition also requested that the Commission cancel or postpone any substantive re-examination of the Guidelines. The Office of Regulatory Staff who now administers the state USF, identified numerous issues: (1) change the fund fiscal year to match the state fiscal year, (2) consider whether the USF should be adjusted semi-annually, (3) establish a time limitation for companies to identify reporting errors regarding overpayments to the USF, (4) charge a fee for carriers filing USF reports late, (5) clarify how much USF support carriers of last resort should receive for services and facilities provided to other carriers, (6) clarify whether USF support should be provided to COLRs based on a COLR's loss of revenue as determined in its latest cost study or based on a per line basis as determined in its latest approved per line cost study and adjusted annually, (7) examine how services that are included as part of a bundled service package or contract offering should be assessed for USF purposes, and (8) discuss trends in the telecommunications sector that affect the USF factor.

This hearing may be in response to the Legislative Audit Council's ("LAC") critical report on the operation of the state Universal Service Fund. As part of a follow-up process the LAC asked both the Commission and the Office of Regulatory Staff what steps they have taken in response to the initial audit's critique. The appeal of the original orders implementing the USF and the Guidelines is still pending at the Supreme Court.

MISSOULA PLAN – Docket No. NDI-1-C

The FCC is considering a proposal called the Missoula Plan developed by the NARUC Intercarrier Compensation Task Force which proposes major changes to the way telecommunications carriers compensate one another for originating and completing long distance calls. The Plan would remove the distinction between compensation for completing interstate and intrastate long distance calls. For most carriers, the Plan would establish one intercarrier rate schedule for all calls, whether local, long distance, interstate or intrastate. Telecommunications carriers would make up lost revenues through a combination of increased subscriber line charges and a new Restructure Mechanism that would function much like the federal Universal Service Fund. The Public Service Commission is holding a workshop on May 31, 2007, for interested parties to provide information regarding the Missoula Plan's potential impact on local exchange carriers, consumers, the South Carolina Universal Service Fund, and the South Carolina Interim Local Exchange Carrier Fund. Persons who want to participate in the workshop must notify the Commission in writing by May 1, 2007.

SOUTH CAROLINA DEPARTMENT OF REVENUE

Job Tax Credits Temporary Revenue Ruling 07-2

On March 15, 2007, the SC Department of Revenue issued a revenue ruling which explains the job tax credit provisions related to the "traditional" annual job tax credit, the "annual" small business job tax credit, and the "monthly" alternative small business job tax credit. These credits may be claimed against the corporate income, personal income, insurance premium or bank taxes. The credits are available to qualifying new or expanding businesses creating a minimum monthly average of new, full time jobs.

Internet Tax Moratorium

On November 16, 2007, the Department issued Revenue Ruling No. 06-8 in regard to the taxation of communications. South Carolina has not enforced the assessment and collection of the sales and use tax on Internet access due to the federal tax moratorium established in the Internet Tax Freedom Act which expires November 1, 2007. The Department will enforce collection of the taxes after November 1st unless Congress extends the moratorium and the General Assembly enacts legislation or approves a regulation to impose the sales and use tax on Internet Access. The Ruling also indicated that charges by a third party to access or use that third party's individual website are subject to the sales and use tax (e.g., monthly charges to access a sports website). The revenue ruling also reaffirmed that VoIP telephone services are subject to the sales and use tax.

Early Termination Fee

The Department of Revenue issued Private Letter Ruling #06-2 on November 6, 2006, in which it indicated that an early termination charge imposed by a telecommunications provider under the circumstances described below is subject to the sales and use tax when billed in connection with a taxable communication service since the charge is part of the "gross proceeds of sales" or "sales price" of the taxable communications service. The circumstances covered are when a customer signs a term agreement which provides that if the customer terminates the agreement prior to the expiration of the term, the customer is required to pay an early termination charge. The charge is a fixed dollar amount multiplied by the number of months remaining on the elected term.

SOUTH CAROLINA LEGISLATIVE UPDATE



The General Assembly convened in January 9, 2007. At the beginning of the legislative session, AT&T was working on a deregulation bill similar to what has been passed in Mississippi, Alabama and Kentucky. For companies operating under the proposed plan, everything except basic residential local service is deregulated. The SCCTA met with representatives of AT&T to suggest revisions to their proposed plan. It appears that AT&T has decided not to push their proposed bill this year.

In addition to Senate Bill 598, following is a list of other pending bills of interest introduced this session:

Senate Bill 464 – Universal Service Fund

This bill restructures the state Universal Service Fund and caps the fund at \$53 million. The USF is currently funded by a surcharge on telephone charges. This bill would also impose the charge on wireless services and “communication services” which would include data, video, information service or VoIP services. The current high cost support supplied by the fund to incumbent telephone carriers would be phased out in 7 years. The fund would be converted to a funding source for rural broadband, computers in schools, low income telephone subscribers, and a statewide wireless broadband initiative. It was referred to the Judiciary subcommittee which met April 10, 2007, to consider this bill and S. 465.

Senate Bill 465 – S.C. Wireless Technology & Communications Commission

This bill aims to increase the deployment of broadband technology in rural areas by creating the Wireless Technology Commission. The Commission would create and implement a statewide wireless broadband network that would be funded in part by modifying the state’s Universal Service Fund through Senate Bill 464. It was referred to the Judiciary subcommittee which met April 10, 2007, to consider this bill and S. 464. There appears to be no opposition to Senate Bill 465 which is expected to pass. House joint resolution companion bill 3569.

Senate Bill 8 – Financial Identity Fraud & Identity Theft Protection

This bill provides protections in connection with consumer credit reports and with the use and communication of a consumer’s social security number. It was referred to the Senate Committee on Banking and Insurance on January 9, 2007.

Senate Bill 27 – Advertising

This bill prohibits advertising that is untrue or misleading, including television, radio and Internet broadcasts. It was referred to the Senate Judiciary Subcommittee on January 17, 2007.

S.C. Legislative Update Continued...

Senate Bill 85 – PSC Regulation Municipal Utilities

This bill authorizes the Public Service Commission to regulate the operations outside the municipality of a public utility owned by the municipality. It was referred to the Senate Judiciary Subcommittee on January 17, 2007.

Senate Bill 117 – SC Business Debt Recovery Act

This bill allows anyone who has judgment for a commercial debt to obtain a writ of garnishment to satisfy the judgment. It was referred to the Senate Judiciary Subcommittee on January 17, 2007.

Senate Bill 169 – Electronic Equipment Recycling

This bill establishes the Electronic Equipment Recycling Program to be administered by the Recycling Market Development Advisory Council within the Department of Commerce. It would impose a \$5 fee for each piece of electronic equipment with a cathode ray tube sold to a consumer which retailers would submit to the Department of Revenue on a monthly basis. The funds would be used to determine the most efficient means to collect and process scrap electronic equipment and to award grants, contracts and loans to further this process and technology for recycling. It was referred to the Senate Agriculture and Natural Resources Committee on January 9, 2007.

Senate Bill 179 – Worker’s Compensation Commission

This bill would abolish the Worker’s Compensation Commission and create a division to handle worker’s compensation claims within the S.C. Department of Insurance. It was referred to the Senate Judiciary Subcommittee on January 17, 2007.

Senate Bill 187 – Smoking Employees

This bill authorizes an employer to advertise for nonsmoking employees and to designate in his advertisement that the workplace is a nonsmoking environment. It was referred to the Senate Committee on Labor, Commerce & Industry on January 9, 2007.

Senate Bill 374 – State-issued Certificate of Franchise Authority

This AT&T pushed bill would amend the Competitive Cable Services Act to add the defined terms “video service” and “video service provider” where “cable service” and “cable service provider” is used. It was introduced and referred to the Senate Judiciary Subcommittee on February 12, 2007. This companion bill mirrored House Bill 3396 which was signed by Governor on March 30, 2007.

Senate Bill 430 – Campaign Contributions

This bill would require special interest groups to report how they spend their money on elections and where their money comes from. Disclosure of contributions expended by noncandidate committees which do not expressly advocate a vote for or against a candidate, but which, when taken in context, have no reasonable meaning other than to urge the election or defeat of a candidate would be required.

S.C. Legislative Update Continued...

Expenditures in this category are not subject to the \$3500 contribution limit to committees by persons. It was referred to the Judiciary subcommittee on February 16, 2007.

Senate Bill 438 – Sexual Orientation Discrimination

This bill amends the anti-discrimination in employment statute to include a prohibition against discrimination for sexual orientation and gender identity. It was referred to the Judiciary subcommittee on February 16, 2007.

Senate Bill 453 – Financial Identity Fraud & Identity Theft Protection Act

This bill provides protection in connection with consumer credit reports and the use and communication of a consumer's social security number. A business employing fifty or more persons who possesses personal identifying information of a consumer must take reasonable steps to protect against unauthorized access to or use of the information. It passed the Senate and was referred to the House Labor, Commerce Committee on February 27, 2007.

Senate Bill 563 – Dishonored Checks

This bill requires dismissal of prosecution for a dishonored check upon payment of restitution and administrative costs. It was referred to the Senate Banking & Insurance Committee on March 13, 2007.

Senate Bill 615 – PSC Telecommunications Regulations

This bill approves the Public Service Commission's proposed amendments to its regulations governing telecommunications which were submitted to the General Assembly during the last legislative session. The proposed telecommunications regulations eliminate the current requirements for telephone bills and replace them with the FCC's "truth-in-billing" requirements. The proposal also revises the requirements for responding to written and oral customer complaints. It passed the Senate and was sent to the House on March 29, 2007.

House Bill 3035 – Identity Theft Protection Act

This bill provides protections in connection with consumer credit reports and with the use and communication of a consumer's social security number. It was referred to the House Judiciary Committee on January 11, 2007.

House Bill 3076 – York Toll Free Calling

The Public Service Commission would require all telephone utilities operating in York County to provide countywide toll-free calling. It was referred to the House Labor, Commerce & Industry Committee on January 9, 2007.

S.C. Legislative Update Continued...

House Bill 3078 – SC Uniform Mobile Telecommunications Accessibility Act

This bill would require mobile telecommunications services providers to make mobile telecommunications available statewide. It was referred to the House Labor, Commerce & Industry Committee on January 9, 2007.

House Bill 3248 – Regulation of Cable Rates

This bill would allow the Public Service Commission to approve rates and charges for cable television companies. It was referred to the House Labor, Commerce & Industry Committee on January 16, 2007.

House Bill 3249 – Agency Regulations

This bill would eliminate the automatic approval procedure for agency regulations not acted upon within 120 days of submission to the General Assembly and would require notice to all members of the General Assembly when regulations are submitted for review. It passed the House and was referred to the Senate Judiciary Subcommittee on March 12, 2007.

House Bill 3276 – Directory Assistance

The bill provides that all local exchange carriers must ensure that directory assistance operators have access to records of all telephone numbers in the geographic area for which the local exchange carrier is responsible for furnishing directory listing service. It was referred to the House Labor, Commerce & Industry Committee on January 17, 2007.

House Bill 3280 – Privacy from Unwanted Commercial Electronic Mail Solicitation

This bill would create a database for a “no email list,” specific content which must be included in commercial email solicitations and criminal penalties for violations. It was referred to the House Judiciary Committee on January 17, 2007.

House Bill 3391 – Cherokee Toll Free Calling

The Public Service Commission would require all telephone utilities operating in Cherokee County to provide countywide toll-free calling. It was referred to the House Labor, Commerce & Industry Committee on January 30, 2007.

House Bill 3412 – Minimum Wage

This bill would establish a local minimum wage (\$7.00) in excess of the federal minimum wage and would provide a one-time tax credit to eligible employers who pay the increased minimum wage. It was referred to the House Ways & Means Committee on February 1, 2007.

S.C. Legislative Update Continued...

House Bill 3569 - S.C. Wireless Technology & Communications Commission

Joint resolution companion bill to Senate Bill 465 aims to increase the deployment of broadband technology in rural areas by creating the Wireless Technology Commission. The Commission would create and implement a statewide wireless broadband network. It was referred to the Ways & Means Committee on February 21, 2007.

House Bill 3670 – Corporate Income Tax

This bill repeals the S.C. income tax for corporations, exempt organizations and cooperatives. It was referred to the Ways & Means Committee on March 8, 2007.

House Bill 3671 – Corporate License Tax

This bill repeals the S.C. Corporate License Tax. It was referred to the Ways & Means Committee on March 8, 2007.

House Bill 3767 – Educational Television Commission

This bill would transform the S.C. Educational Television Commission into a Division of the State Department of Education. It was referred to the Education & Public Works Committee on March 21, 2007.

Order Issued in Time Warner Cable's FCC Declaratory Ruling Petition

On March 1, 2006, Time Warner Cable filed a petition for declaratory ruling requesting that the FCC affirm that requesting wholesale telecommunications carriers are entitled to obtain interconnection with incumbent local exchange carriers to provide wholesale telecommunications services to other providers, including VoIP-based providers. In its petition, Time Warner Cable indicated that it purchased wholesale communications services from certain carriers, including MCI WorldCom, and that MCI has been unable to provide wholesale telecommunications services in certain areas in South Carolina because the S.C. Public Service Commission determined that rural incumbent local exchange carriers are not obligated to enter into interconnection agreements with competitive service providers like MCI to the extent that such competitors operate as wholesale service providers. The memorandum opinion and order issued by the Wireline Competition Bureau reaffirmed that wholesale providers of telecommunications services are telecommunications carriers for purposes of the interconnection provisions of the Federal Telecommunications Act. The order concluded that the S.C. decisions denying wholesale telecommunications services providers the right to interconnect with incumbent local carriers are inconsistent with federal law and FCC precedent and would frustrate the development of competition and broadband deployment.

FCC BRIEFS

FCC Orders and Notices can be downloaded from the FCC's website at www.fcc.gov.

On April 2, 2007, the FCC released a report and order which strengthens its privacy rules by requiring telephone and wireless carriers to adopt additional safeguards to protect the personal telephone records of consumers from unauthorized disclosure. FCC 07-22

On March 5, 2007, the FCC issued a Report and Order and Notice of Proposed Rulemaking which establishes rules which prohibits franchising authorities from unreasonably refusing to award competitive franchises for the provision of cable services. FCC 06-180

On March 27, 2007, the FCC issued a notice of proposed rulemaking in which it solicits comments on the use of exclusive contracts for the provision of video services to MDUs or other real estate developments. FCC 07-32

The FCC issued a declaratory ruling on March 23, 2007, in which it found that wireless broadband Internet access service is an information service and that the transmission component of wireless broadband Internet access service is telecommunications and that the offering of the telecommunications transmission component as part of a functionally integrated Internet access service offering is not "telecommunications service." FCC 07-30

On February 27, 2007, the FCC released *Quality of Service of Incumbent Local Exchange Carriers* which summarizes quality of service data for 2005. The report can be downloaded from www.fcc.gov/wcb/stats.

On February 16, 2007, the FCC issued a public notice seeking comments on amendments to the Missoula Plan that incorporate a proposal addressing issues faced by "early adopter" states.

On February 9, 2007, the FCC released its *Trends in Telephone Service* report which summarizes information published in various reports over 2006. It can be downloaded from www.fcc.gov/wcb/stats.

On January 31, 2007, the FCC released data on local telephone service competition and high-speed services for Internet access. End user customers obtained local telephone service by using 142.2 million incumbent LEC switched access lines, 29.8 million CLEC switched access lines and 217.4 million mobile telephony service subscriptions. High speed lines increased by 26% during the first half of 2006. The reports can be downloaded from www.fcc.gov/wcb/stats.

On January 11, 2007, the FCC issued its quarterly report on informal customer inquiries and complaints. Wireless complaints had a slight rise and wireline complaints held steady or declined. Radio and television broadcasting complaints increased from 53,352 to 163,134.

On December 29, 2006, the Federal-State Universal Service Joint Board released its most recent monitoring report for data filed by the telephone industry for 2005. USF support totaled about \$6.5 billion in 2005. The report can be downloaded from www.fcc.gov/scb/stats

On December 20, 2006, the FCC released its annual report on cable industry prices which showed that average monthly rates for cable service increased by 5.2% in 2004. FCC 06-179