

**Statement of David Honig, Executive Director
Minority Media and Telecommunications Council**

**Video Access Alliance
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Dirksen Senate Office Building, Room 562**

Good afternoon, and thank you for this opportunity to address the key issues in video competition. The FCC is holding a rulemaking proceeding on this subject, and we represent 34 national minority, civil rights and religious organizations in that proceeding.

The question before us today is whether the citizens of a multicultural democracy, who depend primarily on video services as a guide to local civic participation, will finally come to enjoy a menu of program services reflecting the diversity of our nation – program services that are accessible, well financed, independently owned and, above all, readily available.

Through our work advising new video channel developers over the past 20 years, we've concluded that new minority programmers face three major barriers to entry:

First, the “Video Choice” problem – the limited number of distribution channels through which programmers can develop a following;

Second, the “Redlining” problem – the risk that key audiences for minority channels – especially people of color – won't receive competitive video services as rapidly as other Americans; and

Third, the “A La Carte” problem – the possibility that the government could impose program channel lineup regulations that would stop new minority channel development in its tracks.

Let's talk about Video Choice first. New, rapid, competitive video entry is a necessity for low-income consumers or channel developers. It is not a luxury. Competitive broadband services are as imperative in an information-based society as public accommodations, fair housing and desegregated public education were two generations ago.

Further, video competition is itself a public good. The assertion that “one supplier is good enough for the poor” is nothing but an acquiescence to second-class citizenship. In fact, the poor need competitive video choices even more than other citizens, because competition drives down prices and expands program diversity. Low income families especially need multiple and diverse sources of information that can help deliver them the full benefits of first class citizenship: full employment, a quality education, and the wide range of cultural and informational options that are the earmarks of a modern civilized society. It is not acceptable that fewer than 2% of the nation's households have a choice in wireline video providers. That needs to change and soon.

The history of one-source multi-channel video has not been kind to program diversity. The owners of the only cable systems in town have required programmers seeking carriage to surrender company stock, pay a high premium, or accept channel positions that are inferior to those held by companies that acquiesced to these demands. Certainly, though, there are examples of partnerships between cable distributors and video programmers that do advance diversity, most notably TV One. We need more joint ventures like TV One, and we also need

new distribution channels that will provide more new entrants a fair chance to create and monetize new audiences.

Redlining in cable and telephony prevents minority video programmers from reaching their core target audiences. The poor have suffered from redlining in virtually every facet of their lives: housing, insurance, lending, shopping, education, public safety, and cable and telecom services. A recent and disturbing example is presented by the April 2006 study by the National Fair Housing Alliance, which tested 73 real estate firms in twelve metropolitan areas and found that an amazing 87% of housing testers experienced racial steering, even though the African American and Latino testers presented superior financial qualifications, including higher incomes and better credit.

Many telecom and cable companies do not redline anymore, and there are very strong economic incentives *not* to redline. As former NTIA Director Larry Irving, former FCC Chairman Michael Powell and the Video Access Alliance's Julia Johnson have eloquently pointed out, minorities strongly over-index on telecom service, and the poor spend as much on telecom service as other Americans spend. When every telecom and cable leader and executive takes heed and is held accountable by her company for acting on this good news, most telecom and cable redlining will come to an end.

I am not sure the FCC has the resources, the expertise or the will to implement a vast new federal civil rights enforcement program. But assuming that the FCC could be charged with this task, it's vital that telecom legislation give the FCC the tools it will need -- the basic elements of every modern civil rights statute. Large potential forfeitures are meaningless if there can never be a case leading to such a forfeiture. Meaningful redlining protections should provide for a disparate impact standard, since discriminatory intent is so easy to conceal; specify what specific practices constitute redlining; afford broad standing and incentives for citizen participation in redlining enforcement, and authorize sufficient well-targeted discovery. Finally, the legislation should allow a video provider to obtain pre-clearance of its anti-redlining plans and thus establish a rebuttable presumption that it will not redline. These provisions would memorialize our values as a nation and flesh out the true meaning of first class citizenship in an information society.

The final major potential barrier to entry for minority video providers is government-mandated a la carte channel delivery. A la carte would be the death knell for program diversity.

To understand why, think of multi-channel cable as a video library. In a traditional library, natural curiosity motivates visitors to browse the shelves and check out books they never have heard about. In the same way, channel surfing allows viewers to encounter and enjoy programming they never would choose with a la carte.

If traditional libraries operated a la carte, they would only need drive-up windows. Readers would only order books they already had heard about — one book at a time. Far fewer books would be published, and most books would be mass-appeal titles. Our intellectual and cultural life would lose much of its vibrancy and depth.

Similarly, under cable a la carte, new channels featuring gospel music, international culture or movies about African Americans would never get off the ground. Without the daily exposure that comes with channel surfing, it could take these new channels decades to attract the millions of loyal viewers they would need to recoup the costs of producing high-quality programming for a national audience.

In conclusion: to advance video program diversity, Congress should facilitate rapid competitive franchising, adopt strong and enforceable anti-redlining protections, and prevent the FCC from interfering with video providers' decisions on how to package their channel offerings.