

Broadband Service Providers Association (BSPA)

Overview Presentation

Department of Justice

Telecommunications Symposium

November 29, 2007

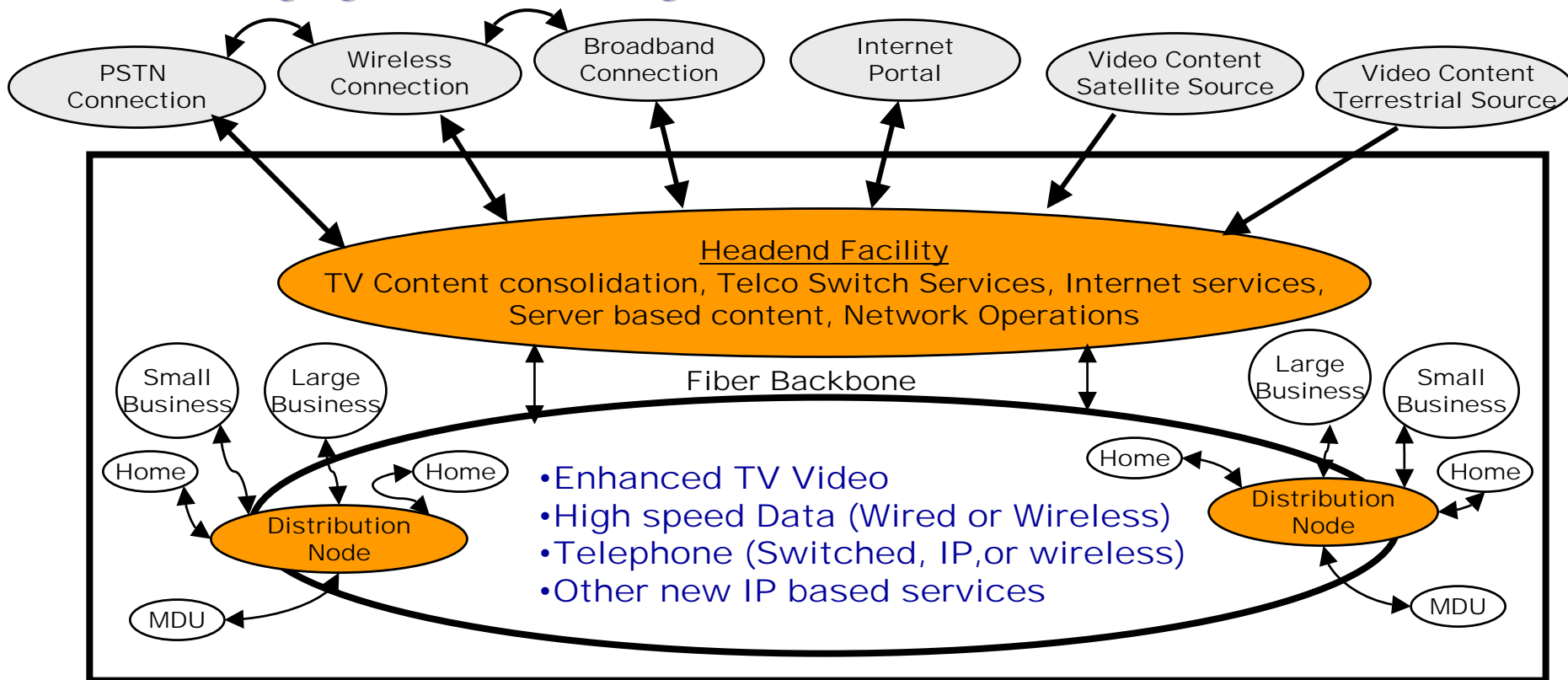
John Goodman, Executive Director, BSPA

BSPs - Pioneers in Bundled Primary Services

- ▼ **Created by the 1996 Telecom Act and New Technology**
- ▼ **BSPA Members Include: RCN, Knology, PrairieWave, SureWest, Everest, Hiawatha Broadband**
- ▼ **Member Characteristics**
 - **Facilities based bundled services including:**
 - **Digital Cable TV**
 - **Broadband Internet**
 - **Voice Telephone**
 - **Competitive market position vs. incumbents**
 - **Residential/Small Business Focus**
- ▼ **A business and competitive model for Cable, Telco, and other network upgrades or new network construction.**

HYBRID NETWORKS DELIVERING CONTENT AND CONNECTIONS

- New investments focused on integrated networks for access to connections, information, and entertainment.***
- Emerging 3 screen strategies: TV, PC, Handheld***



- ✓ **Households under Franchise: > 10 million**
- ✓ **Homes Passed: > 4.1 million**
- ✓ **Miles of Constructed Network: > 40,000**
- ✓ **Total current Customers: > 1.2 million**
 - **Average penetration > 30%**
- ✓ **Total current RGU's: > 2 per customer.**
 - **Cable TV Penetration 89%**
 - **Digital Penetration >37%**
 - **Broadband Internet Penetration >65%**
 - **Telephone Penetration > 50%**
- ✓ **Profile of Bundles Sold.**
 - **Video, Voice, and Data: 32% of all customers**
 - **Video and Data: 26% of all customers**
 - **Video and Voice: 8% of all customers**
 - **Voice and Data: 4% of all customers**
 - **Video only: 22% of all customers**
 - **Data only: 4%**
 - **Voice Only: 5%**

- **Extremely capital intensive.**
- **Significant losses during construction (3-5 yrs.).**
- **Long term outlook: slightly higher returns than a Utility with higher risk and potential upside.**
 - **Not a “pot of gold” with extraordinary profits.**
 - **Competition and improved services are biggest community benefits.**
- **Established systems are becoming profitable.**

Kohl/DeWine 2004 study of markets with wireline competition.

- ✓ **Lower rates for Cable TV (15-41%, 23% Avg.)**
- ✓ **Lower rates for Broadband and Telephone (5-15%)**
- ✓ **Increased penetration of Broadband Internet**
- ✓ **Increased penetration of enhanced Digital TV**
- ✓ **Expanded next generation services**
- ✓ **Improved customer satisfaction rates**
- ✓ **Applies to small rural and large metro areas**
- ✓ **Pricing and other market impacts continue today**

- ▼ **GAO profiled DBS penetration by Type of Market.**
 - **Geographic Comparisons**
 - Rural: 29%
 - Suburban: 18%
 - Urban: 13%
 - **Type of Cable Competition**
 - Not Upgraded: 36%
 - Partial Upgrade: 16% (Digital Video plus Broadband)
 - Fully Upgraded: 14% (Voice, Video, and Data)
- ▼ **The FCC has recognized the competitive impact of:**
 - Expanding regional clusters
 - Expanding horizontal concentration
 - Many DMA video market shares above or near 78%

We continue to seek additional video competition.
Today's wireline competition reaches < 5-7% of the market.

- ✓ **Broadband expansion is an ongoing priority.**
 - **Section 706 of the Telecommunications Act of 1996.**
 - **A current priority of Congress.**
 - **A priority of the current Administration.**
 - **A current priority of the FCC.**
- ✓ **The Bundle is essential to Wireline Networks that expand Broadband.**
- ✓ **Video is the most significant part of the current bundle.**
- ✓ **Policies that support wireline video competition also support Broadband expansion.**
- ✓ **As stated by the FCC in its recent Franchising Order:**

“We note our previous conclusion that the ability to offer a viable video service is “linked intrinsically” to broadband deployment.”

- ▼ **Extension of the 628 prohibitions on exclusive programming contracts.**
 - **Programming subject to Cable Ownership and delivered by Satellite.**
 - **Assured competitor access at fair cost.**
 - **Improved discovery and complaint procedures.**
- ▼ **Franchise process and provisions.**
 - **Applied to new competitive franchises.**
 - **Applied to existing franchises at renewal.**
- ▼ **Assured access to MDUs**
 - **Prohibitions against exclusive contracts.**
 - **A further proceeding to look at other related issues.**

THE NEXT PROGRAM ACCESS ISSUE: CLOSING THE “TERRESTRIAL LOOPHOLE”

- ✓ **The “Terrestrial Loophole” creates significant competitive program access issues.**
 - **Terrestrial Networks can now deliver any programming.**
 - **Terrestrial Networks can be preferred for regional programming.**
- ✓ **The 628 rules were extended by a 5-0 FCC vote finding that:**
 - **Access to “must have” programming is essential for competition.**
 - **Vertically integrated cable operators still have the incentive and ability to withhold must have programming.**
 - **The current rules have caused no harm to program development.**
 - **Expanding regional clusters and further horizontal consolidation increase the ability and incentive to withhold programming.**
 - **Examples of denied programming access are clear evidence of what major incumbent cable will do if allowed.**
- ✓ **All arguments that supported the 628 extension also apply to expanding the rules to include terrestrial distribution.**

CLOSING THE “TERRESTRIAL LOOPHOLE”: PENDING FCC ACTION

- ✓ **The FCC has taken action on the Terrestrial Loophole.**
 - **Closed the Loophole for programming effected by the Adelphia transaction.**
 - **Potentially Close the Loophole for all cable affiliated programming as part of NPRM 07-198.**
- ✓ **We expect legal authority will be the primary debate in 07-198.**
 - **Program Access Statutes are grounded in antitrust principles and legal precedent.**
 - **The FCC has full legal authority to act based on 628 (b).**
 - **The FCC has additional authority to act based on the mandate to develop Broadband in Section 706.**

We will seek both Congressional and DOJ support for the FCC to Close the Terrestrial Loophole.

BSPs have faced all forms of anti-competitive activities. This experience has led us to the following conclusion:

If every other issue that has been historically identified as a potential barrier to competitive video entry (franchising, predatory pricing, technical standards, etc.) were resolved without assured access to content, thus allowing dominant vertically integrated cable operators to pursue foreclosure strategies related to content, competition would indeed be impaired.