



# NEW JERSEY DIVISION OF THE RATEPAYER ADVOCATE

*Utility News for Consumers*

## A Consumer Update On Deregulation of Cable Television Rates

On March 31, 1999, the Federal Communications Commission's ("FCC") authority to receive or act upon consumer complaints regarding cable television service ended, leaving many consumers unsure if any consumer protection from cable rate increases remain. While the sunset of the FCC's authority does lessen the amount of consumer protection, state regulatory bodies, such as the New Jersey Board of Public Utilities, are still permitted to regulate some aspects of cable service, and state consumer advocates, such as the New Jersey Ratepayer Advocate, remain committed to protecting cable consumers to the fullest extent of the law.

In 1992, Congress set up a dual regulatory scheme for cable television regulation: the local franchise authority regulated the basic service tier ("BST") while the FCC regulated the cable service programming tier ("CPST"). The BST includes, at a minimum, local broadcast signals, public, educational and governmental access channels and charges for equipment necessary to provide service. The CPST includes any other tier of programming, although it does not include premium channel offerings, such as HBO or Cinemax, or per-program offerings, such as Pay-Per-View. These offerings have never been subject to regulation.

In New Jersey, the local franchise authority is the Board of Public Utilities. When cable operators petition the Board of Public Utilities for a BST rate increase, the Ratepayer Advocate and the Staff of the Board of Public Utilities review the requests and challenge cable operators when we determine the operators are requesting unreasonable or unfair rate increases. As a result of these challenges, cable operators have been permitted to implement only minor BST rate increases in recent years. In numerous other proceedings, cable operators have been required to refund overcharges (with interest) to consumers. ***The role of the Ratepayer Advocate in protecting consumers is not affected by the March 31, 1999 sunset of the FCC's authority.***

Many consumers do not understand the FCC's role in cable television regulation. Prior to March 31, 1999, the FCC would review a cable operator's CPST rate increases only if it received two or more consumer complaints shortly after the rate increase was implemented. As the rising costs of many cable television bills indicates, however, the FCC's efforts to limit CPST rate increases have not had as great an impact as the efforts of the Ratepayer Advocate and the Board of Public Utilities to limit BST rate increases. As of March 31, 1999, however, the FCC lost its previous authority to review CPST rates.

Some people believe that with the loss of the FCC's authority, cable television's newly unregulated rates will soar. The Ratepayer Advocate thinks this is unlikely. First, local franchise authorities still have the authority to regulate the BST. Second, many cable television operators have gone on record stating that the sunset of the FCC's authority will not affect their rates. Third, cable operators do not want to anger those members of Congress who supported deregulation of the CPST. Fourth, cable operators want to support the argument made by consumer advocates around the country, such as

the New Jersey Ratepayer Advocate, that deregulation must promote competition, not strengthen monopoly. Finally, cable operators do not want to price their services as high as direct broadcast service ("DBS"): the only service which provides any real competition to cable television service.

While the FCC's authority to regulate the CPST may have expired, it still intends to maintain a role in protecting cable consumers. Recently it released its Cable Consumer Bill of Rights.

### **The FCC's Cable Consumer Bill of Rights**

- 1. Consumers should expect a fair deal from their cable company, with reasonable rates that fairly reflect the costs of doing business;**
- 2. Consumers should expect an explanation from their cable company whenever rates for the programming service tier are raised, particularly when cable companies attribute price increases to increases in the cost of obtaining programming;**
- 3. Consumers are entitled to write or call their cable companies whenever they have complaints about the cable services being provided on the various channels, or about program cost increases, and they should expect a speedy response;**
- 4. Consumers are entitled to file complaints with their local government regarding basic service tier cable rate increases and service quality.**
- 5. Consumers are entitled to provide their own inside wiring for cable hookups;**
- 6. Consumers will soon be entitled to purchase and use set-top boxes at competitive market prices;**
- 7. Consumers have a right to contact local, state and national advocacy groups with grievances that are not being adequately resolved by their cable operators; and**
- 8. Consumers unhappy with their local cable company should explore competitive alternatives for video programming service available from DBS and other providers.**

## Meaningful Competition Can Be the Best Form of Consumer Protection

Of course, the best form of consumer protection is for consumers to have many video programming providers to choose from. Only a small number of towns throughout the country have multiple cable providers, but in these towns, rates are lower than the nationwide average, customer service is better and consumer benefits are greater. In some other towns where cable operators have refused to compete in the service territory of an incumbent, local governments have built their own cable television system, either by themselves or in partnership with a local utility or other entity. These towns, as well, reap the benefits of competition.

Nationally, the most significant competitor to cable television is DBS. Presently, DBS is too expensive for many consumers, and is unable to carry local broadcast signals in many areas. However, this may soon change. Congress is working on legislation which would permit DBS to carry local broadcast signals, and many experts believe DBS providers will lower prices to compete for cable consumers. The Ratepayer Advocate supports the ongoing efforts to permit DBS providers to compete fairly with cable television companies so that consumers can benefit from increased competition.

Ultimately, a vigorous, competitive market will provide the greatest opportunity for increased choices, lower prices and better services for cable consumers. Until we have a fully competitive environment, we must use all legal means to limit cable television rate increases. The Ratepayer Advocate continues to be dedicated to protecting the interests of consumers by challenging proposed rate increases and promoting competition, ensuring that cable consumers get a fair deal for their cable television service.

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**Blossom A. Peretz, Esq.  
Ratepayer Advocate**

**Blossom A. Peretz, Esq.,  
Ratepayer Advocate  
State of New Jersey  
Div. of the Ratepayer Advocate  
31 Clinton Street, 11th floor  
P.O. Box 46005  
Newark, NJ 07101  
Tel. (973) 648-2690  
Fax (973) 624-1047  
<http://www.njin.net/rpa>  
e-mail: [njratepayer@rpa.state.nj.us](mailto:njratepayer@rpa.state.nj.us)**



*Governor Christine Todd Whitman*