

## FCC seeking to close programming access loophole

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(AP) -- Federal regulators are seeking to close a loophole that allows cable TV operators to withhold sporting events and other popular programming that they own from rival providers such as satellite TV.

The Federal Communications Commission will consider an order to close to the so-called "terrestrial loophole," which allows cable companies to get around access requirements in a 1992 federal cable law by distributing programming over landlines rather than satellite connections.

Cable TV operators including Cox Communications Inc., Cablevision Systems Corp. and Comcast Corp. have relied on the loophole to deny programming to competitors such as DirecTV Inc., Echostar Corp.'s Dish Network, AT&T Inc.'s U-Verse video service and Verizon Communications Inc.'s FiOS video service.

Cox, for instance, denies AT&T access to San Diego Padres games. Cablevision won't let AT&T and Verizon carry the high-definition format of its Madison Square Garden networks, which broadcast the games of the New York Knicks, New York Rangers, New York Islanders and New Jersey Devils.

And Comcast does not provide its satellite competitors with access to its SportsNet Philadelphia channel, which carries games by the Philadelphia Flyers, Phillies and Sixers. Comcast does provide the channel to Verizon and RCN Corp., which offers competing cable services in some markets.

The FCC's move comes as the commission begins its regulatory review of Comcast's proposal to buy a controlling stake in NBC Universal from General Electric Co. Although the two matters are separate, some analysts expect the FCC to close the terrestrial loophole for Comcast as a condition of regulatory approval for that deal.

In the meantime, the FCC staff has prepared an order to eliminate the terrestrial loophole for all cable companies and plans to send it to the agency's five commissioners on Wednesday. It was not immediately clear when the commissioners will vote on the order.

The development came as welcome news to companies competing with cable operators in the market for video services.

"We applaud this effort by the FCC to address this anti-consumer, anti-competitive behavior," Susan Eid, DirecTV's senior vice president for government affairs, said in a statement.

That sentiment was echoed by Verizon. "Consumers shouldn't be forced to stick with their incumbent cable provider in order to have access to their local teams' games, or to watch those games in high definition," spokesman David Fish said.

But cable companies argue that the existing rules help them differentiate their offerings in a highly competitive business.

"Exclusive distribution of programming can be a pro-competitive tool that offers an incentive for companies to develop unique services," the National Cable & Telecommunications Association, the cable TV industry's largest trade group, said in a statement.

Indeed, the NCTA noted that DirecTV has experienced enormous success with its exclusive NFL Sunday Ticket package, which shows

National Football League games.

For its part, Cablevision said it is urging the FCC "not to take any action that would eliminate the incentive for technological advancements and the development of new and innovative programming."

"The idea that the nation's two largest phone companies, AT&T and Verizon, need a regulatory bailout is absurd," it added.

AT&T, Comcast and Cox had no comment and Echostar did not respond to a request for comment.

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