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SB 1087

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Mr. Chairman, and members of the Committee, I appreciate this opportunity to share our thoughts with you on SB1087.

I'm proud to say that, in 2005, when the Texas Legislature was considering SB5, which established the new statewide franchise system for video services, I testified in favor of removing barriers to entry of new video competitors into the marketplace. IPI was a strong proponent of undoing the former system of local video franchises, since technological innovation had now made it possible for a competitive marketplace to exist in the provision of video services. And I'm proud that Texas led the nation in this effort.

As you probably know, many other states followed Texas' lead on the statewide video franchise issue. Indiana was the first, and when I testified in Indiana, I encouraged them to follow Texas' lead, with one exception: I told them that, in retrospect, Texas had made a mistake by leaving incumbent cable companies trapped in the existing local franchise system, with no opportunity to take the same advantage of the new statewide video franchises that their new competitors would be using. Indiana amended their legislation, and to my knowledge every other state that passed statewide video franchise legislation made a point of allowing incumbent cable providers to also opt into the new system.

SB 1087 is thus a long overdue opportunity to correct this mistake. I want to be clear that SB5 has been a tremendous success, and Texas consumers have been the beneficiaries of a competitive video marketplace that is the envy of other states. I'm delighted that my small town of Copper Canyon, near Denton, has Verizon's FiOS fiber broadband system, and I question whether we would have that system today were it not for the pattern of regulatory modernization and streamlining that Texas has pursued over the last decade. SB 5 has been a tremendous success, and the legislation before you is an opportunity to correct an unfortunate omission in that legislation.

It's important for government to not distort competition in the marketplace. Government should not only not "pick winners and losers," but government should also not distort the playing field with either taxes or regulations that apply to one competitor but not to another. Today, cable competitors are being hindered in their competitive efforts by remaining trapped in local franchise agreements that leave them subject to many regulatory requirements that do not apply to their competitors. It's time to level the playing field and make sure Texans benefit from the most robust, most cutthroat, most aggressive competition possible.

SB1087 also contains other sensible provisions designed to further level the playing field and ensure that video providers are not subject to unreasonable regulatory requirements. There's no reason why video providers should be required to continue to maintain and upgrade Institutional Networks—let municipalities contact for their network maintenance and service in the private marketplace like everyone else does. These obligations were forced upon video providers during the course of franchise negotiations where the municipality held all the cards and pretty much had the cable companies at their mercy. It's frankly offensive when government entities demand these kinds of extractions from the private sector, and it's time to remove this obligation as a relic of the bad old days.

Finally, SB1087 contains a welcome provision related to ensuring that communities which draw funds dedicated to the provision of PEG channels actually spend the money on PEG channels, which some unfortunately do not, and are rather diverting these funds into general obligations.

The Institute for Policy Innovation commends you for taking up this legislation. We think it will foster increased competition and investment, and that it is good for Texas consumers. We pledge to work with you on these issues, and I'm happy to answer any other questions you might have.