EXECUTIVE SUMMARY OF FINDINGS OF THE STATE CABLE TELEVISION REGULATION PROJECT

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The state cable television regulation project addresses the political dynamics, legal options, regulatory issues and economic impacts of state government involvement in cable television. This 18-month project was conducted by the Harvard University Program on Information Resources Policy in conjunction with Kalba Bowen Associates, Inc., under a National Science Foundation grant.

The following is a complete list of this report series.

P-78-2 Regulatory Politics: State Legislatures and the Cable Television Industry, Konrad K. Kalba, Larry S. Levine, and Anne E. Birinyi, August 1978.

P-78-4 The States Regulate Cable: A Legislative Analysis of Substantive Provisions, Philip R. Hochberg, July 1978.

P-78-5 Taxation, Regionalization and Pole Attachments: A Comparison of State Cable Television Policies, Larry S. Levine, Konrad K. Kalba, and Philip R. Hochberg, August 1978.

P-78-6 The Regulation of Cable Television Subscriber Rates by State Commissions, Larry S. Levine, July 1978.

P-78-7 The Economic Impact of State Cable TV Regulation, Yale M. Braunstein, Konrad K. Kalba, and Larry S. Levine, October 1978.

P-78-8 Federal Preemption of State Regulation in Cable Television, Philip R. Hochberg, November 1978.

P-78-9 States, Stakeholders and the Cable: The Evolution of Regulatory Policies, Konrad K. Kalba, December 1978.

P-78-10 Chronology of State Cable Television Regulation: 1947 - 1978, Anne E. Birinyi, November 1978.

P-78-11 Executive Summary of Findings of the State Cable Television Regulation Project, Konrad K. Kalba, Larry S. Levine, Yale M. Braunstein, and Philip R. Hochberg, December 1978.

The state cable television regulation study was designed to assist legislators and regulators in understanding the historical evolution, political dynamics, legal and regulatory options and economic consequences of state involvement in cable television.

Toward this objective, the study addressed the following specific questions:

- How has state cable television regulation evolved over time? What stakeholder groups have attempted to influence the state role? What other factors have shaped changes in this role?
- What are the circumstances which have caused some states to adopt state regulation, others to consider the state regulation option yet reject it, and still others not to consider regulation? Can these different levels of interest be attributed to the level of cable development in the state, legislative priorities, actual or perceived cable industry improprieties, or municipal and federal interest in the cable television issue?
- What kinds of statutes were enacted? What issues have these statutes addressed? What regulatory or non-regulatory structures have been created by state legislatures?
- How have state agencies approached cable television issues such as rate regulation, pole attachments and regional services? Have the approaches taken by different states toward a given issue diverged or converged? What determines whether a particular approach will be adopted by a state?

- What is the impact of state cable regulation on the cable industry, cable consumers, and federal and local regulators? What are the benefits and the costs of state regulation for the various stakeholders?

- How are stakeholder perceptions of state regulation changing? How has the state-federal relationship evolved? What future policy and regulatory issues may arise?

Our findings on each of these questions are summarized below.

The Evolution of State Cable Television Regulation [1]

The study found that the evolution of state cable television regulation has occurred in three phases.

The first phase began with passage of the first statute which granted cable television jurisdiction to a state agency (Connecticut in 1963). This phase had several characteristics: all of the states which adopted cable regulation lodged jurisdiction with public utility commissions (PUC's); there were none or very few cable subscribers in these states; local regulation was preempted; and relatively few states -- other than the ones which adopted regulation -- considered regulation during this first phase.

The second phase began in 1971 with the adoption of state regulation in Massachusetts. This phase had the following characteristics: three of the five states adopting regulation vested jurisdiction in a separate cable commission; cable was more developed in these second phase states

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[1] A detailed treatment of the material in this section can be found in Konrad K. Kalba, et al, States, Stakeholders and the Cable: The Evolution of Regulatory Policies, Harvard University Program on Information Resources Policy, Publication P-78-9, December 1978, Section 1.0.

than in the earlier first phase states; local regulation, although constrained somewhat by state regulation, was not preempted; and many states other than the five which adopted regulation considered it.

The third phase began roughly at the time that the last comprehensive state regulation statute (Delaware in 1974) was adopted. This phase is marked by interest in cable television issues by a wide range of states. The interest, however, has been directed towards passing legislation dealing with specific cable television issues (e.g. pole attachments, theft of service), rather than with broad comprehensive regulatory statutes.

Cable Television Regulatory Politics at the State Level [2]

Five states were examined in order to discern which factors were important in determining whether or not a state would adopt comprehensive cable television regulation. These included three states that have adopted comprehensive regulation (Connecticut, New York and New Jersey) as well as two states that considered such regulation but have not, as of 1978, passed statutes (Wisconsin and California). The following four factors were found to be important:

- Industry cohesiveness -- As might be expected, where the cable industry was well organized and ably represented in opposing state regulation, it was usually successful. It was postulated -- based on a comparison of two states (California and New York)

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[2] A detailed treatment of the material in this section can be found in Konrad K. Kalba, Larry S. Levine and Anne E. Birinyi, Regulatory Politics: State Legislatures and the Cable Television Industry, Harvard University Program on Information Resources Policy, Publication P-78-2, August 1978; and Konrad K. Kalba, et al, States, Stakeholders and the Cable: The Evolution of Regulatory Policies, op. cit., Section 2.0.

-- that industry cohesiveness, or lack thereof, may underlie the ability of the industry to defeat regulatory initiatives. The industry is less likely to be successful in states where it is made up of a mix of large MSO's (multiple system operators) and "Ma and Pa's" (small, single system operators), whose interests are not always common, than in states where the industry is more uniform.

- Public relations -- How the legislature perceived the cable industry was also an important element. In states where there was no extensive media coverage of alleged industry improprieties, cable regulatory statutes did not pass. In states which did pass regulatory statutes, the perception of industry improprieties was an important factor in at least one of the five states (New Jersey). While the perception of industry improprieties was not always a key determinant in the adoption of state regulation, the lack of this perception was important in the rejection of state regulation.

- Pressures from competing industries -- In states where the legislature had been pressured by competing industries (such as telephone or broadcasting companies) to adopt regulation, the legislature was more likely to do so. The cable industry, however, has learned how to coexist with its competitors in some states (e.g. California), and has thus been able to reduce the pressure on state legislatures to enact comprehensive regulation.

- The role of municipalities -- In states where localities have been able to mount a cohesive campaign against the state preemption of their regulatory powers, the chances for state regulation have been reduced and the probability that the state will adopt regulation which preempts local authority has been low. The ability of the cable industry to form a loose coalition with municipalities in order to fight state regulation was found to be a key factor in the rejection of such regulation.

Statutory Choices Following the Decision to Regulate [3]

In states where legislatures have determined that regulation is desirable, choices have been made concerning several key legal and administrative issues.

Among the eleven states which have comprehensive regulation, the definition of cable television varies considerably. Several states define cable television as a public utility, while others explicitly diverge from this definition. This impacts upon the regulatory structure which the state chooses. In the eight states which have defined cable television as a public utility, the legislature has vested jurisdiction in the agency which has been responsible for other public utilities. In all but two of

[3] See Philip R. Hochberg, The States Regulate Cable: A Legislative Analysis of Substantive Provisions, Harvard University Program on Information Resources Policy, Publication P-78-4, July 1978; and Konrad K. Kalba, et al, States, Stakeholders and the Cable: The Evolution of Regulatory Policies, op. cit., Section 3.0, for an in-depth treatment of the material in the section.

these eight states, local regulatory responsibilities have been preempted (the exceptions are New Jersey and Delaware). States which vested jurisdiction in separate cable commissions, on the other hand, have usually allowed for a sharing of regulatory responsibilities between the state and municipalities.

Two structures of state cable television regulation can therefore be delineated, along with the advantages and disadvantages inherent in each. Vesting jurisdiction in an existing public utility agency while simultaneously preempting local regulation can be a quick and cheap form of regulation and can eliminate regulatory duplication. However, in those cases where this approach has been followed, regulatory policies have often been borrowed from other utility areas and have not always been appropriate for cable television (e.g. rate base rate of return regulation).

By vesting jurisdiction in a separate agency (which must be created), the legislature is opting for a more expensive approach. Localities, however, can remain responsible for certain areas, and cable is not likely to be viewed as another public utility. At the same time, this separate agency form can cause regulatory duplication (i.e. between state and local authorities) as well as inter-agency jurisdictional problems at the state level (e.g. between the separate agency and the PUC over such issues as pole attachments).

There are, however, other structural options for comprehensive regulation, some of which are beginning to be tested. These options include the hybrid approach, which places jurisdiction within a public utility agency, but which also creates a separate cable office within that agency (as in New Jersey). Depending upon how this separate office is structured, how autonomous it is, how much localities are allowed to regulate, and other factors, this approach can combine many of the advantages of the other two approaches without as many disadvantages. States could also choose to create a new telecommunications agency, combining state regulatory and planning responsibilities for telephone, cable television, and educational and government communications in a single entity.

Regardless of which issue areas the legislature addresses in a cable statute, not all of the regulatory functions assigned to the agency will be actively pursued by that agency. The structure of the agency, its budgetary resources and the tradition within which it operates will tend to determine which issues are focused upon and how they are resolved. As a rule, public utility agencies have tended to concentrate on the economic behavior of the cable industry with limited attention to other issues. Separate agencies, although given the jurisdiction to examine planning issues, have not made much progress given their limited experience in this area. They have, however, promoted the development of public uses of cable television in at least two cases (Minnesota and New York). In general, recent cable statutes have contained a larger number of provisions than earlier ones and have been more specific on matters of agency jurisdiction. By contrast, some of the earlier statutes merely defined cable television as a public utility and did not statutorily address any issues which were of particular importance to cable television development.

Alternatives to Comprehensive Regulation [4]

Many states have pursued alternatives to comprehensive state cable regulation. In at least 21 states, statutes have been enacted which delegate regulatory authority to municipalities and other local governments. In most cases, the delegation has been general; in others, the statute requires municipalities to grant franchises according to specific statutorily mandated standards or guidelines. Another alternative has been the enactment of special statutes which do not vest comprehensive jurisdiction in any agency. This approach has been increasingly favored by the states, as reflected in the passage since 1975 of more than 25 theft of service statutes and, more recently, of pole attachment laws.

Finally, states can affect the development of the cable industry by taxing cable television in various ways (e.g., utility taxes, sales taxes). These taxing powers can emanate from the legislature or be asserted by state tax agencies without legislative action. For taxation purposes, cable has been variously defined as a public utility, a luxury, a service, etc. The taxation definition is not always consistent with other legal definitions of cable television in the same state (e.g., New York, where cable is taxed as a public utility, but is not regulated as one). Moreover, the tax approach is usually pursued for revenue-gathering purposes, with little regard for the impacts on cable development.

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4 Material covered in this section is treated in detail in Larry S. Levine, Konrad K. Kalba and Philip R. Hochberg, Taxation, Regionalization and Pole Attachments: A Comparison of State Cable Television Policies, Harvard University Program on Information Resources Policy, Publication P-78-5, August 1978, Section 2.0; and Konrad K. Kalba, et al., States, Stakeholders and the Cable: The Evolution of Regulatory Policies, op. cit., Section 3.0.

Regulatory Policies and Their Determinants [5]

State policies in three issue areas -- in addition to taxation -- were examined in detail. These were rate regulation, regionalization and pole attachments.

In the rate regulation area it was found that although the structure of rate regulation varies across states, most of the states with extensive rate regulation authority have approached this issue using traditional public utility principles. In some cases, however, rate regulation authority has been assumed by state agencies to protect the cable industry from the political rate-making process at the local level, instead of or in addition to the traditional concern of protecting the consumer from monopolistic industry practices. A recent trend towards limiting the state rate regulation role was also found. This trend has been prompted by the realization on the part of several state agencies that cable television is not necessarily a monopoly, coupled with the assessment that rate-making procedures, as they have developed to date, may be too burdensome on both the cable industry and the regulatory agency. This trend is evident in proposals to deregulate rates for some cable systems or to allow cable systems to adjust rates to a maximum level for various classes of cable systems.

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[5] A detailed treatment of the material covered in this section can be found in Larry S. Levine, The Regulation of Cable Television Subscriber Rates by State Commissions, Harvard University Program on Information Resources Policy, Publication P-78-6, July 1978; Larry S. Levine, et al, Taxation, Regionalization and Pole Attachments: A Comparison of State Cable Television Policies, op. cit., Sections 3.0 through 5.0; Philip R. Hochberg, Federal Preemption of State Regulation in Cable Television, Harvard University Program on Information Resources Policy, Publication P-78-8, November 1978; and Konrad K. Kalba, et al, States, Stakeholders and the Cable: The Evolution of Regulatory Policies, op. cit., Section 4.0.

Regionalization issues have been addressed by state regulators in a variety of ways. Some states (e.g. Vermont, New York) have attempted to encourage regional development of cable television by means of line extension policies. These policies, however, have failed to solve the problem of cable operator reluctance to serve low density areas. Other states (e.g. Connecticut, Rhode Island) have promoted regionalization by franchising on a multi-community basis, but it has been difficult to draw rational regional franchise boundaries, given the multiple factors involved (technical, economic, communities of interest, etc.). Still other states (e.g. Minnesota, New York) have attempted to promote the interconnection of cable systems. However, this alternative requires that the agency take a multifaceted regulatory, planning and promotional approach, and concrete results have been slow to develop. Another approach (i.e., New Jersey's) has involved the consideration of regional factors in case-by-case franchising reviews. This approach has proven to be lengthy, costly, and also limited in its ability to take into account all of the relevant technical, social, economic and political facets of specific regionalization issues. The development of regionalization policies is likely to require that considerable staff resources and planning experience be allocated to addressing this potentially important area of state involvement. Yet these two ingredients have rarely been available within cable regulatory agencies.

The third issue area examined was the regulation of agreements for pole attachments and conduit rights between cable companies and public utilities. Prior to the passage of the Federal Pole Attachments Law (which gives the FCC the right to regulate these agreements unless a state has asserted jurisdiction), very few states addressed this issue. Exceptions to this rule, however, were seen in some of the states which vested jurisdiction over the cable industry in public utility regulatory agencies (Connecticut, Hawaii and New Jersey), and in California, where the cable industry effectively convinced the legislature to vest pole attachment regulation in the PUC (i.e. without extending PUC jurisdiction to other areas of cable TV). The approaches pursued by these states have ranged from outright setting of pole attachment rates (Connecticut) to formal and informal encouragement of improved communication between cable and utility representatives (New Jersey). Other states and the FCC, however, have had little experience in this area. It is likely that with the passage of the federal pole attachments legislation more states will address the issue in an attempt to prevent the FCC from taking jurisdiction.

Several determinants of regulatory action were found. These determinants were shown to affect how and which issues would be addressed by regulatory agencies. These include:

- Regulatory agency traditions -- Public utility agencies tend to approach cable as a mature industry, focusing on rate regulation; cable agencies, although they have been attempting to forge a new tradition, have also focused on a limited number of issues -- although sometimes different issues (e.g. public services, pay cable) from the PUC agencies.

- Statutory limitations -- Statutory and judicial constraints have impacted upon the agencies' sense of flexibility as well as their priorities and administrative procedures. For example, in Massachusetts the Community Antenna Television Commission was given the statutory right to regulate subscriber rates, but was required to insure that operators were allowed to earn a fair and reasonable rate of return. These statutory instructions have limited the rate-making methods which the agency can employ. Generally, agencies have been willing to pursue innovative policies only to the extent that their statutory mandate is open-ended or the agency is willing to risk court reversal.

- <u>FCC preemption</u> -- In some instances, the FCC has limited state action in certain areas and encouraged it in others. For example, until recently the FCC prohibited local authorities (either state or municipal) from enforcing access requirements which were in excess of federal requirements. FCC guidelines have not always been accepted by state regulators (e.g. New York's attempt to regulate pay cable subscription charges despite FCC prohibition of this type of rate regulation). But an agency wishing to diverge from FCC rules must be willing to commit staff resources to lengthy court proceedings, a cost that small agencies in particular are not likely to bear. Time delays and industry alienation can be other effects of challenging FCC preemptive authority.

- <u>Agency resources</u> -- The budget of the regulatory agency can greatly affect the scope of issues the agency is willing to address. Agency resources also affect the organization of the agency, which in turn can affect policies and priorities (i.e. if an agency creates a planning subunit it is likely that planning issues will be emphasized). Correspondingly, it is not surprising that the New York Commission has pursued the broadest set of regulatory and other activities, since its annual budget (1978) of roughly $1 million is much greater than that of other state agencies.

- Regulatory compliance -- Agencies will tend to avoid adopting policies with which the industry will not readily comply or to alter existing policies in the face of non-compliance (e.g. Connecticut's policies with respect to system construction schedules were altered due, in part, to industry resistance). Conversely, where the agency perceives that it has few, if any, alternatives to pursuing a disliked policy -- for example, if there is a strong agency tradition, specific statutory mandate, and/or an unequivocal court decision -- that agency is more likely to institute and implement this policy.

The Consequences of State Cable Regulation [6]

The consequences of state regulation were examined according to their effects on various stakeholders. The study examined the impact of state regulation on industry development, the cable subscriber, and the regulatory process at local and federal levels.

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[6] The quantitative material described in this section can be found in Yale M. Braunstein, Konrad K. Kalba and Larry S. Levine, The Economic Impact of State Cable TV Regulation, Harvard University Program on Information Resources Policy, Publication P-78-7, October 1978. Some of the non-quantitative material can also be found in Section 6.0 of that paper. Additional material concerning the consequences of state cable regulation can be found in Konrad K. Kalba, et al, States, Stakeholders and the Cable: The Evolution of Regulatory Policies, op. cit., Section 5.0.

A series of econometric analyses were undertaken to assess regulatory effects on the rates charged by systems in regulated states vs. non-regulated states for three years (1971, 1974, 1976). A principal finding was that rates were higher in regulated systems in 1974 than in non-regulated systems. Analysis of 1971 data indicated that subscriber rates charged were equal during that year in states with and without regulation, which suggests that the 1974 results were valid.

Several alternative explanations for these 1974 findings were posited. By examining FCC financial data for cable systems, it was concluded that the higher rates found in regulated systems did not result in greater profits. In addition, it was tentatively concluded that the higher rates could be explained by the higher costs of operation in the regulated states. The major components of these higher costs are the additional regulatory fees which systems pay in states with state regulation and the costs of interacting with state regulatory authorities. Other components of the higher costs which could be important are capital or service costs incurred in response to regulatory policies (e.g. districting, interconnection standards) and/or operating inefficiencies, which could be encouraged by rate of return regulation. These additional components, however, were not extensively examined in this study.

The analysis of 1976 subscriber rate data resulted in findings that were somewhat different from the 1974 findings. In 1976 regulated systems were charging higher rates than non-regulated systems primarily where systems with large channel capacities were involved. In other cases, the rates of regulated systems were the same or slightly lower than those of comparable non-regulated systems. This suggests that state regulators may be applying different criteria to large and small channel capacity systems. The reason for this may be that "small" systems are more likely to operate in rural areas with fewer media outlets, whereas "large" systems are typically located in more competitive media environments.

No systematic effect of state regulation on the penetration of cable systems was found despite the fact that state regulatory agencies may have an impact in this area, either directly (via system construction requirements) or indirectly (via rate-making methods). The "no effect" finding in this study, however, could be due to the penetration measure used -- basically, a viability measure of number of subscribers divided by the number of homes passed by the cable system. Other measures used in future analyses may detect some penetration differences between regulated and unregulated systems.

It was also hypothesized that state regulation might affect the ownership structure of the industry in regulated states, since state regulation could discourage or encourage group ownership of cable systems, either directly or indirectly. An analysis of ownership figures in 1971, 1974 and 1976, however, did not reveal any differences between regulated and unregulated states. Ownership structure effects could be more long-term and could be measured in a number of different ways, and therefore this question may merit further research.

One final area of the impact of state regulation on cable development was noted; through the standardization of franchise renewal and granting procedures it is likely that state regulatory authorities have contributed to franchise stability.

The impact of state regulation on the cable subscriber was assessed by examining how several state agencies have handled consumer complaints. This was done by examining the recorded number and types of complaints as well as complaint resolution procedures. Given the non-comparable nature of the complaint data, no conclusive relations between regulation and subscriber benefits (or costs) were established. But this examination did raise several questions about the ability of state agencies to play a strong role in consumer protection. Specifically,

- It is not clear whether cable subscribers recognize the state regulatory agency as a locus for receiving and responding to complaints;
- Unless a state cable agency has adequate staffing to receive and resolve consumer complaints, it may be better for an agency specialized in resolving consumer complaints (such as a consumer protection agency or Attorney General's office) to also handle cable subscriber complaints;
- Unless the state agency is given a time limit in which to resolve complaints, many consumer concerns may be left unresolved;
- Legislators and regulatory commissioners have not spent much time monitoring state cable consumer complaint handling functions; and
- It does not appear that cable subscribers are recognized or have sought to be recognized as stakeholders in the development of cable television, at least not on a par with the cable industry, municipalities, or the utilities.

The study also concluded that state regulation has decreased local regulatory prerogatives. Localities, even if they have not been preempted by state regulation, have been discouraged from bargaining with franchise applicants or franchisees for specific service features. However, in some cases municipal officials have not been adverse to having state agencies assume some of their regulatory responsibilities, especially if this has relieved them from an unwanted administrative burden or from having to make politically difficult decisions.

State regulation has not generally threatened the overall federal cable regulatory framework. This conclusion is based on two findings. First, the states have not really acted as a unified and independent group; an alternative policy framework (i.e. to the FCC's) has not been fostered. Second, in the areas where the states have diverged from each other, most of this divergence has not affected the implementation of FCC regulations. There is, however, one area of state activity which is potentially in conflict with federal objectives. This is the tendency to perceive the cable industry as a source of revenue for the state -- as evidenced by state taxation policies. State tax policies may conflict with federal policies, to the extent that the latter seek to encourage the future development of cable television as a medium in its own right.

Changing Stakeholder Perspectives [7]

The study also found that several stakeholders have changed their perspectives on state regulation as the cable regulatory environment has evolved.

[7] A detailed treatment of the material in this section can be found in Konrad K. Kalba, et al, States, Stakeholders and the Cable: The Evolution of Regulatory Policies, op. cit., Section 6.0.

Change was most easily seen within the cable industry itself. Historically the cable industry has been opposed to state regulation. This perspective was -- and still is to some extent -- based on the perception that state regulation is hostile to the industry's interests. Specific examples used to support this perspective have been the absence of cable development in Connecticut years after regulation was instituted, the Massachusetts Commission's early advocacy of a "separations" policy (separating control of programming from control of transmission), and the pursuit of rate of return regulation by several states.

However, the attitudes of cable operators on state regulation are not as monolithic as they were several years ago. Cable operators in states without regulation still tend to oppose the imposition of such regulation, while operators in states with regulation -- although they still believe there are disadvantages -- are more willing to concede that state regulation has some advantages for the industry. The advantages cited include: state agencies are more professional and knowledgeable than their local counterparts; state regulators can be helpful in passing needed legislation (e.g. theft of service); rate adjustments are sometimes easier at the state level; and state regulators are easier to influence than local regulators. It was also found in interviews with cable operators that larger multiple system operators were often seen as benefiting from state regulation, while the small companies with strong local ties were seen as being disadvantaged.

The perspectives of state legislators have also evolved over time. When cable was seen as an adjunct to over-the-air broadcasting, legislators were willing to let cable be regulated at the local level or if it was to be regulated at the state level, to lodge jurisdiction in public utility agencies. When cable began to be viewed as a multi-service medium, legislators became interested in legislating these future services into existence. The result was the creation of separate cable regulatory agencies. As this future-oriented vision of cable television has faded and as state legislators have come to look upon the cable industry as a constituency, legislators have begun to draft and support statutes which have been industry-oriented (e.g. theft of service, pole attachments, etc.) and not directed towards giving comprehensive jurisdiction to a state agency.

Other stakeholders have not changed their perspectives as visibly or uniformly as cable operators and state legislators. The regulatory agencies, recognizing the practical limitations of regulating cable development in a comprehensive manner, have pursued more selective courses of action. But the priorities have differed among the agencies (e.g. encouragement of public service uses in Minnesota vs. rate regulation in Massachusetts). The FCC has sought (not always successfully) to preempt important facets of cable regulation, but has also recognized the practical value of federal/state administrative cooperation. Municipal reactions to state regulation have continued to range from positive acquiescence to strong opposition. Finally, the cable industry's relations with other industries have become more competitive in some cases (e.g. with telephone companies and utilities over pole attachments) in recent years and less so in others (e.g. with broadcasters, due in part to cross-ownership).

The study also considered the impact on state regulation of the recently proposed "rewrite" of the Communications Act of 1934, which -- in the bill introduced in the U.S. House of Representatives in 1978 by Reps. Van Deerlin and Frey -- would abolish federal cable television regulation. This proposed abandonment of the federal regulatory role, combined with recent questioning of the FCC's jurisdiction by the courts, raises several fundamental questions about state involvement in cable television. Will the states regulate signal carriage in the future? Should they? Will they regulate the access channels or pay TV rates? Can PUC agencies be expected to regulate telephone companies and cable systems in a uniform manner?

While it is difficult to foresee how these issues will be resolved, two stakeholders may hold the balance of power in shaping the future of state cable regulation. They are state legislators and cable subscribers. Depending on the amount of interest and attention state legislators devote to these new issues, the state regulatory role may change dramatically over the next five years or hardly at all. Similarly, depending on whether cable subscribers remain passive or become more active participants in the state regulatory process, the issues may be resolved in terms the cable industry is comfortable with or in as yet unanticipated ways.