1991
The U.S. Supreme Court rules that taxes applicable to cable but not other media do not violate the First Amendment. (*Leathers v. Medlock*, 499 U.S.439)

1992
The 1992 Cable Consumer Protection Act is passed over a presidential veto. The law gives the FCC broad powers to re-regulate the industry. Among the provisions are stringent rate regulation and roll-backs, rules favoring broadcast stations, and items governing marketing tactics and technological requirements.

The FCC is tasked with implementing 13 different proceedings from the 1992 Cable Consumer Protection Act and freezes rates until it can address critical issues.

1993
Bell Atlantic successfully challenges the telco-cable cross-ownership ban specified in the 1984 Cable Act. A Federal court in Virginia rules the ban violates the First Amendment. The other six RBOCs file similar lawsuits. The U.S. Justice Department and the NCTA file appeals.

A special three-judge district court upholds the 1992 Cable Act's must carry provisions.

Congress introduces legislation to conditionally lift telco-cable cross-ownership bans. Other legislation removes state and local barriers to local telephony loop entry so cable operators can offer telephony services.

The FCC issues cable rate benchmarks in April and institutes a series of rate freezes. It requires systems to roll back customer rates,negotiate retransmission consent agreements with local broadcasters, rearrange channels to accommodate must carry signals, and add new satellite services required to reach FCC benchmark levels.

Must carry/retransmission consent negotiations begin. Network broadcasters demand cash payments from cable systems for carrying network stations. Cable systems agree to launch broadcaster-owned satellite networks in exchange for signal carriage. Unable to reach agreement, local broadcast stations in several markets force cable systems to drop their signals.

The Clinton Administration unveils its telecommunications policy and calls for fostering construction of a national "information superhighway" infrastructure. New FCC Chairman, Reed Hundt, makes stringent enforcement of the 1992 Cable Act a top priority.

The FCC plans to auction the personal communications services (PCS) spectrum which could result in as many as seven wireless operators in agiven market. License holders can team up to craft a nationwide wireless network.

1994
Federal courts allow telcos into the cable programming business.

The Supreme Court remands the must carry case back to the lower courts, while again stating that cable has certain First Amendment protection. (*Turner Broadcasting v. FCC,* 114 S. Ct. 2445) Suits challenging provisions of the 1992 Cable Consumer Protection Act provisions move forward.

Customer rates are rolled back a second time. The FCC is unable to respond to 4,500 of the 6,500 rate complaints filed during the year.

The FCC uses Section 214 to establish its oversight of "video dialtone" (VDT). Telcos file a number of applications to construct VDT systems instead of seeking cable franchises from local regulatory authorities.

The FCC establishes a Cable Bureau and releases its going-forward rules. Operators may collect 20 cents per month for each channel added to regulated tiers for up to six new basic channels over a three-year period. The rules also allow operators to create unregulated new product tiers for new niche services. Many planned network services are unable to get funding due to the FCC's restrictive regulation.

1995
A number of states repeal laws banning cable operators from offering telephony services.

In order to settle the outstanding number of rate complaints in a timely manner, the FCC enters into "social contracts" with major MSOs. In exchange for subscriber refunds, stable prices and commitments to rebuild systems and increase channel capacity, the FCC agrees to stop rate proceedings.Time Warner Cable and Continental Cablevision enter into such agreements. Comcast, Cablevision Industries, Tele-Communications, Inc., Cox and Cablevision Systems reach more limited settlements of rate complaints with the FCC.

The FCC begins auctioning the PCS spectrum. It also changes its cost-of-service rules which provide cable operators with an alternative to the benchmark formula for calculating their maximum permitted rates.

High Definition Television (HDTV) is subject to delays amid Congressional and industry debate on issues.

1996
The Telecommunications Act of 1996 passes Congress and is signed into law on February 8, signaling a new era in U.S. communications. It immediately deregulates rates for small cable systems. It removes entry barriers and requires RBOCs to open up their markets to competition. AT&T begins to offer local telephone serviceand the RBOCs prepare plans to offer long distance services.

U.S. District Judge Harold Greene officially terminates the consent decree which governed the 1984 breakup of the Bell System.

A federal appellate court upholds rate regulation under the 1992 Cable Act and finds that the Act did not violate cable's First Amendment rights. It holds that the FCC's rule making in certain instances under the 1992 Act was flawed. (*Time Warner Entertainment v. FCC,* 56 F.3d15 (D.C. Cir.) *cert. denied,* 116S. Ct. 911 (1996))

A Delaware state court judge finds against U S West in its suit to prevent Time Warner's purchase of Turner Broadcasting, Inc. FTC approves Time Warner's purchase of Turner Broadcasting.

The U.S. Supreme Court holds that the First Amendment is violated by sections of the 1996 Telecommunications Act--1) requiring operators to separate "patently offensive" material on one channel to block the channel and to unblock it within 30 days of a customer's written request and 2) allowing operators to ban pornographic material on public access channels. In the same case, the Court upholds a provision permitting operators to prohibit pornographic programming on leased access channels (*Denver Area Educational Telecommunications Consortium, Inc. v. FCC* 116 S. Ct. 2374.)

The FCC auctions MMDS licenses, PCS and DBS frequencies. At 136 days and 181 rounds from start to finish, the wireless cable auction was the longest in FCC history, raising$216.3 million for 493 Basic Trading Area (BTA) authorizations. The PCS auction raised $10.2 billion.

The FCC is tasked with implementing scores of different proceedings from the Telecommunications Act of 1996. In August, it approves an Interconnection Order to facilitate cable operator entry into telephony. However, in an appeal from the RBOCs, a three-judge panel of the U.S. Court of Appeals for the Eighth Circuit in St. Louis halts the FCC order that seeks to open RBOC telephone markets to competition.

In order to facilitate and accelerate the deployment of DBS, the FCC unanimously approves preemption of local zoning regulations that restrict dish placement. The FCC proposes to preempt private restrictions (i.e., condo associations, planned communities, covenant restrictions).

1997
The Supreme Court, in a unanimous decision, affirms a Wilmington, Del. court decision to deny a preliminary injunction of Section 505 of the 1996 Telecommunications Act. Playboy and Spice appealed the provision which

requires cable operators to fully scramble the video and audio signals of adult channels or offer the programming only between 10 p.m. and 6 a.m. (*Playboy Entertainment Corp v. United States,* 117 S. Ct. 1309)

In a 5-4 ruling that surprises the cable industry, the Supreme Court upholds must carry, in spite of swing vote Justice Stephen Breyer's note that it "extracts a serious First Amendment price." It also solidifies the broadcast industry's grip on one-third of cable's analog signal capacity. The implications for how the rules apply to digital services, especially DBS, are unclear. (*Turner Broadcasting System v. FCC,* 117 S. Ct. 1174)

A federal appellate court upholds a preliminary injunction that prevented New York City from using government access channels on Time Warner Cable systems to offer general news and business news cable networks. (*Time Warner Cable v. Bloomberg LP*, 1997 US App. Lexis 16283 (2d Cir.))

A federal court affirms the town of Sturgis, KY's decision not to renew the cable franchise with Union CATV, because the operator lacked the facilities to meet the community's needs. The decision solidifies cable's right to take franchise-renewal disputes to court. *(Union CATV, Inc. v. City of Sturgis*, 107 F.3d 434 (6th Cir. 1997))

The Clinton Administration plans to raise $26.1 billion from auctioning spectrum. The largest block, $14.8 billion, would come from broadcasters' analog channels that would be returned to the FCC once the transition to digital is complete.

Following a Supreme Court ruling, the FCC hands down an order implementing Section 505 of the Telecommunications Act which requires all cable operators to completely scramble adult programming or place it in the safe harbor hours (10 p.m. to 6 a.m.).

The FCC hands the industry a setback with a precedent-setting case in Troy, MI. Cable operators will be forced to obtain new franchise agreements for upgrading plant to offer telephony. However, the FCC also found the city of Troy violated federal law by trying to impose a telecommunications condition on cable construction.

The FCC approves the British Telcom/MCI $23.7 billion merger, giving PrimeStar access to key transponders enabling them to plan for launching a high-power DBS service.

The FCC forces Rainbow Programming Holdings, a subsidiary of Cablevision Systems Corp. to sell programming to Bell Atlantic Video Services Co. to settle a dispute over access to SportsChannel New York for Bell Atlantic's Tom's River, NJ system.

The FCC releases a new set of emergency alert system rules (EAS) which give operators more time to comply with the technical criteria for broadcasting emergency signals. Under the new regulations, operators must offer a visual emergency alert warning on at least one channel and an audio warning on all channels.

The FCC releases inside wiring rules which allow landlords and apartment building owners to manage the disposition of broadband wiring. The rules allow the operator to remove, abandon or sell the wiring to the new video service provider once a landlord terminates a contract with the cable operator.

1998

Broadcasters win over DBS interests on July 14, when a US District Court in Miami issues an injunction ordering PrimeTime 24, a wholesale distributor of satellite TV programming, to cut-off 1.2 million customers illegally receiving CBS and Fox network signals after March 11, 1999. If a household can get a Grade B off-air broadcast signal clearly at least 50% of the time, it is ineligible to receive network signals via satellite. In December, the Miami Court issues a permanent injunction against PrimeTime 24 from delivering illegal distant signals, ensuring that Congress must change the Satellite Home Viewer Act (SHVA) to avert DBS customer disruption caused by the loss of network signals. *(ABC, Inc. v. Primetime 24,* 1999 U.S. App. LEXIS 14979)

EchoStar Communications Corp. files a class-action suit in a Colorado federal court against ABC, CBS, NBC and Fox broadcast networks asking the court to declare its local and distant signals are legal under the SHVA. EchoStar also petitions the FCC, asking them to rewrite part of the SHVA. Broadcasters oppose the plan, fearing they would lose advertising if DBS offers distant network signals in place of local network affiliates. The FCC declines to act, citing lack of statutory authority under the SHVA to prevent customers involved in the court cases from losing the services. The FCC does, however, revise its rules to simplify how Grade B contours are determined. *(DirecTV, Inc. v. FCC*, 110 F.3d 816 (D.C. Dir. 1997))

A panel of three federal judges in Delaware strikes down as unconstitutional Section 505 of the Communications Decency Act of 1996 which requires cable operators to fully block or scramble channels primarily dedicated to sexually explicit programming or carry such channels only during times when children are unlikely to view it. The Court holds Section 505 violates the First Amendment because a less restrictive alternative is available, namely Section 504, which requires systems to block channels for individual customers upon request. The government appeals the decision to the Supreme Court. *(Playboy Entertainment Group, Inc. v. United states of America,* 30 F. Supp. 2d 702 (D. Del. 1998))

The Iowa Supreme Court hands Tele-Communications, Inc. a temporary victory in the ongoing battle against municipal overbuilds. It rules that Section 23A.2 of the Iowa Code prohibits municipalities from operating telephone systems as public utilities, as a 1993 law allowing cities to offer telecommunications services, including cable, did not extend to telephone. The decision overturns a lower-court ruling, finding the town of Hawarden is precluded by statute from offering local telephone service to residents. *(Iowa Tel. Association v. City of Hawarden,* 589 N.W. 2d 245 (Iowa 1999))

Cablevision of Boston sues Boston Edison and RCN in Federal Court for building a commercial telecom network in Boston using electric utility regulations, but not fulfilling the same requirements and burdens as the City applies to cable operators. The suit charges the City approved retroactive permits for the initiative so Edison and RCN could avoid delays and costs, thus violating the Telcom Act's Section 253 which requires local authorities to be "competitively-neutral and non-discriminatory" in their rights-of-way policies. *(Cablevision of Boston, Inc. v. Public Improvement Comm'n of Boston,* 38 F. Supp. 2d 46 (D. Mass. 1999))

With the increase of copyright payments of $.27 per signal for DBS companies, up from $.06, the U.S. Copyright Office income from DBS providers for the first half of 1998 is $50 million, compared to $17 million in the same period in 1997.

In the first decision to test a U.S. Supreme Court ruling that lets operators ban indecent content on leased-access channels, a U.S. District Court rules that Time Warner didn't violate the first amendment when it banned three episodes of a leased-access program filmed at a Rochester strip club. *(Loce v. Time Warner Advance/Newhouse Pshp.,* 1999 U.S. App. LEXIS 13179))

The City of Austin, TX files a lawsuit against SBC's Southwestern Bell Video Services, alleging the company is a "cable operator" and therefore should pay franchise fees. *(City of Austin v. Southwestern Bell Video Services,* 1998 U.S. Dist. LEXIS 16332)

The 5th Circuit Court of Appeals rules in September the 1996 Telecom Act's special provisions that deny telco entry into long distance service are constitutional. *(City of Dallas v. FCC,* 165 F.3d 341 (5th Cir. 1998).

In July, the FCC rules Entertainment Connections, Inc. (ECI) a Michigan SMATV, does not have to have a franchise to interconnect apartment buildings separated by public streets in East Lansing, Mich. The company leases fiber optic cable lines owned by Ameritech Corp, the local phone provider.

In August, with a 5-0 vote, the FCC tightens existing program-access rules in an effort to help direct-broadcast satellite, wireless cable and private cable providers compete against franchise cable companies. Fines for violations are up to $75,000 for a single violation and victims can collect damages where programmers willfully violate the rules.

The FCC Cable Services Bureau reversed its previous order and extends U S West Media Group's waiver from federal cross-ownership, allowing the company to keep the Minneapolis Cable system. The ruling was based on U S West restructuring its U S West Communications and UMG subsidiaries into separate public companies that abrogate the ban on telco-cable cross ownership.

In a groundbreaking decision, the Mt. Hood Cable Regulatory Commission recommends the city of Portland and Multnomah County, Oregon make ISP access a condition for transferring their TCI franchises to AT&T. TCI refuses to accept the provision. Internet Service Providers, including America Online Inc., and telcos also lobby the FCC and local regulators to block the merger unless AT&T agrees to unbundle TCI's @Home network.

In a pro-DBS decision, the FCC announced DBS providers will be allowed to set aside the minimum four percent of their channel capacity for non-profit educational programming, instead of the maximum seven percent allowed by the 1992 Cable Act.

The FCC rules that broadcast stations that use their digital-TV licenses for subscription services will have to pay fees equaling five percent of gross revenues. It is unclear whether revenues from programming tiers made of digital-TV signals and digital-cable networks would be considered retransmission payments or be subject to new fees.

On September 17, the FCC rules that Multipoint Multimedia Distribution Service (MMDS) wireless cable operators can transmit two-way, high-speed data services, generating more competition for wireline cable modems and digital subscriber link (DSL) technologies.

Citing "social contract" regulations the FCC orders eight separate Time Warner Cable systems in New York and Massachusetts and eight New York Cablevision Systems Corp. franchises to refund overcharges varying from $.36 to $1.37 each. Cablevision is also forced to refund $1.2 million to 300,000 subscribers in 60 communities in nine states. TCI agrees to refund $4.8 million, including $41.88 each to 61,000 subscribers in Oakland, CA. After March 31, 1999, the FCC regulation of expanded basic rates will sunset, as stated in the 1992 Cable Act.

The Michigan State PSC rules that Ameritech New Media must cease and desist offering coupons worth $120 for Ameritech cable customers to use for basic Ameritech telephone service. Ameritech must pay legal fees incurred by the Michigan Cable Telecommunications Association to bring the case to its attention. Though it is against state law to cross-subsidize regulated offerings, the Americhecks can still apply towards paging, cellular and security monitoring, Ameritech's unregulated services. Three months later, the Michigan PSC rules Ameritech again violates Michigan law by failing to report, in 1995, a $1.7 million transfer of assets to its cable affiliate, Ameritech New Media.

The FCC proposes easing regulations for telcos to build long-distance fiber networks as long as the new capacity is made available to competitors at cost. This is designed to allow telcos to better deploy their xDSL technology to individual homes and thus compete with cable modems.

In an attempt for private sector initiatives to campaign finance reform, Daniels Cablevision gets permission from the Federal Election Commission to offer free campaign ads to U.S. House and Senate candidates on its California systems. It voluntarily reserves 20% of its available advertising time for qualified candidates.

The Department of Justice claims PrimeStar's cable owners dismantled the first EchoStar/ASkyB deal and files an antitrust suit in May to prevent PrimeStar from gaining access to the 28 transponders in the third and final available full-CONUS direct-broadcast satellite slot (110 degrees west). This action dissolves the June 1997, $1.1 billion merger agreement with MCI Communications and News Corp because PrimeStar will not agree to the DOJ demand that the five cable owners divest their ownership interests for the transaction to continue. MCI purchased the transponders for $682.5 million in 1995.

The FCC's June 11 ruling allows set-top boxes to be available commercially at retail outlets. The move is mandated by the Telecommunications Act of 1996. The commission also rules MSOs must separate out security functions from boxes by July 1, 2000, in spite of industry lobbying to delay the date until September 1, 2000. (1998 FCC LEXIS 2778; FCC No. 98-116)

1999
As expected, regulation of the upper tier prices for major cable companies ceases on March 31 with little fanfare.

Retransmission consent negotiations again result in embittered battles. Among others, Fox Broadcasting demands Cox Communications distribute FX, Fox Family and Fox World Sports company-wide on its digital tiers. As a result, Fox's broadcast signal disappears from Cox's line-up for a week for 400,000 angry customers in Washington D. C., Cleveland, Dallas, Houston and Austin.

The $56.4 million MediaOne merger with AT&T stays in limbo until the FCC's cable-ownership-cap-and-attribution rules and the issue of "insulated limited partnerships" is resolved. Pushing AT&T over the 30 percent cap is MediaOne's 25.5% limited partnership in Time Warner Entertainment, making TWE's 9.7 million subscribers attributable to AT&T. Together, AT&T, MediaOne, and Time Warner would serve 42 percent of the nation's cable and satellite homes. (14 FCC Rcd 19014; FCC No. 99-904)

A crucial FCC decision December 22 opens the door for Bell Atlantic Crop. to offer long-distance service to New York residents, the first time since the AT&T breakup that an RBOC will be allowed to offer local and long-distance service. (15 FCC Rcd 3953; FCC No. 99-904)

The Connecticut Department of Public Utility Control votes August 25th to allow SNET, which was purchased by SBC Communications last year, to discontinue construction of its statewide HFC network. Through SBC was the first RBOC to jump into the video business in 1993, its operations never lived up to SBC's expectations. SBC absorbs Ameritech and halts the franchising efforts of Ameritech New Media, the nation's largest cable over-builder. Its cable/data networks pass 1.7 million homes and serve 200,000 subscribers in 114 communities in Illinois, Ohio and Michigan. (1999 Conn. PUC LEXIS 347; Docket No. 99-04-02)

The FCC approves the sale of Comcast Corp.'s cellular-telephone unit to SBC Communicaitons Inc. for $400 million in cash and $1.3 billion in assumed debt. Comcast Cellular serves approximately 800,000 customers, including the company's home market of Philadelphia. Bell Atlantic. (14 FCC Rcd 10604; FCC No. DA 99-1318)

The FCC rules November 18 that Incumbent Local Exchange Carriers (ILECs) must share their lines with high-speed Internet competitors. The ruling prohibits ILECs from requiring high-speed Internet competitors to buy a second line when hooking up a DSL or data customer. The average $20 monthly charge for second line is a disadvantage when the ILEC uses a single line to offer their own voice and DSL products. (1999 FCC LEXIS 5958; FCC No. 99-355)

The FCC imposes an array of conditions and noncompliance penalities in order to approve the $60 billion merger of SBC and Ameritech. (14 FCC Rcd 14712; FCC No. 99-279)

The FCC requests a federal appeals court in California overturn a federal district court order supporting open access to Internet service providers on cable systems in Portland, OR, maintaining the policy for the Internet regulation is national, not local. As the "open access" issue gets hotter, the OpenNet Coalition of Internet-related companies hires powerful lawyers and a politically well-connected public relations team to assist communities where the issue is raised. (AT&T v. City of Portland, 43 F. Supp. 2d 1146, 1151-district court order.)

The FCC's Fifth Annual Competition Report shows DBS grew 44% in one year (from 5 million to 7.2 million subscribers, or 9.4% of the market) while the cable industry grew two percent (three million customers reaching a total of 73.6 million households) from 1997 to 1998. Cable's market share, however, dropped to 85% of the multichannel video programming distributor (MVPD) market, down from 87% in 1997. The study also shows cable prices outpaced inflation: Cable prices rose 8.5% while the Consumer Price Index rose 2%, according to the Bureau of Labor statistics.

Legislation introduced to push back the March 31 deadline for FCC to cease regulating cable prices on expanded basic cable services fails to pass. Cities retain the right to regulate lifeline basic services.

The Iowa state Supreme Court withdraws its 1998 opinion and says it is appropriate for municipalities to operate telephone utilities. *(City of Hawarden v. U S West Communications, Inc.,* 590 N.W. 2d 504 (Iowa 1999))

Open access preoccupies the industry much the year. The U.S. District Court rules in June that the local regulators in Portland, OR can force AT&T Corp. to open its network as part of the franchise transfer process. The ruling immediately goes to the Ninth Circuit Court of Appeals. The core issue is whether high-speed Internet access is a cable or telecommunications service and whether a cable operator is a "telecommunications facility" or a provider of "telecommunications services". The NCTA argues services like Road Runner and Excite@Home are advanced cable services and should be regulated like plain old cable service. In response, AT&T files a lawsuit against Portland, OR challenging its authority to demand the company open its platform to competitors. Congress introduces several Open Access measures,including H.R. 1686, the Internet Freedom Act, which would allow unaffiliated ISPs denied cable access to file antitrust suits against cable operators. After defending its right to refuse to carry independent internet service providers for much of the year, AT&T smothers the rising public outcry and breaks ranks with other cable operators in a Decmember 6th agreement to provide Mindspring, the nation's second largest ISP, across its high-speed broadband network.(*AT&T v.City of Portland*, 43 F. Supp.2d 1146, 1151)

President Clinton signs the Satellite Home Viewer Improvement Act November 29 which grants DBS providers the opportunity to bring local broadcast signals into local markets.

On July 31, the U.S. District Court in Miami orders DirecTV and Prime Time 24 to discontinue distant network stations service to customers in Grade A and Grade B contours. Following th enactment of SHVIA, the Court rules in December that PrimeTime 24 can sell distant network signals to any C-band dish owner who subscribed before Oct 30, regardless of whether they disconnected or were terminated by court order. (*CBS v. PrimeTime 24*, 48 F.Supp.2d 1342, 1363, *ruling at* 1998 U.S. Dist. LEXIS 20488 (Dec. 30, 1998); *CBS v. DirecTV,* 1999 U.S. Dist. LEXIS 6503)

Late fee charges plaguing the industry for years took on a new level as the Maryland Appeals Court issues a July 26 ruling upholding a lower court's ruling in a class action lawsuit that AT&T must return about $7.5 million in illegal late fees and interest paryments to cable customers in Baltimore. Dozens of late fee lawsuits are pending around the country. *(United Cable v. Burch*, 732 A.2d 887, 901)

The U.S. Court of Appeals for the Fifth Circuit in Ne w Orleans holds that local governments have the authority to require open-video system operators to obtain franchises, even though Congress intended to lift that burden with the Telecommunications Act of 1966. *(City of Dallas v. FCC*, 165 F.3d 341, 360)

On February 17, The Iowa State Supreme Court withdraws its 1998 opinion and says it is appropriate for municipalities to operate telephone utilities. *(Iowa Telephone Ass'n v. City of Hawarden,* 589 N.W.2d 245, 255-256)