

Recent FCC Court Activity

When the existing rules were adopted in 2007 prohibiting Cable and Telephone Companies from enforcing existing Exclusive Contract provisions or entering into new provisions (but allowing Private Cable Operators - PCOs - to do so), the associations representing Cable Television Companies and the Apartment Industry challenged the validity of these new rules. They asked a federal court to "stay" the FCC from implementing the new rules and to also determine if the FCC had the statutory authority to adopt the rules in the first place.

After many months and hearing oral arguments from all the parties, there was recently a court decision argued on April 17, 2009 and decided on May 26, 2009 for the *National Cable & Telecommunications Association (NCTA) v. Federal Communications Commission (FCC)* in regard to Exclusive Service Contracts.

NCTA and NMHC (National Multi Housing Council) lost on both issues.

What does this mean for the PCO industry?

The Court made it very clear that:

- 1.) **The FCC acted within its statutory authority** to adopt the regulation prohibiting Exclusive Service Contracts as used by franchised cable companies and other MVPDs covered by Section 628 of the Communications Act.
- 2.) Making the prohibition retroactive **did not** violate statutory law or legal precedent.

Therefore, **PCOs continue to have the right to be able to sign Exclusive Agreements** as if the court challenges had never been raised, and major Telephone and Cable Companies do not.

IMCC is your resource for regulatory information affecting our industry. The Independent Multi-Family Communications Council is the **ONLY** organization representing PCO interests in Washington DC in front of the FCC, ensuring the health of the industry for PCOs, their clients and their vendors.

As a non-profit organization, member support from PCOs, MDU Owners and Vendors through payment of dues allows our organization to continue to lobby on behalf of our industry, ensuring its success. Are you a member?

If you are not currently a member or require more information, please contact:

Valerie Sargent
IMCC Executive Assistant

10 Serena Court, Newport Beach, CA 92663
Phone: (949) 274-3434 Email: vsargent@imcc-online.org
Website: www.imcc-online.org



