Press Release

Washington Legal Foundation
Advocate for Freedom and Justice®
2009 Massachusetts Avenue, NW
Washington, DC 20036
202.588.0302 wlf.org

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Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

WLF Urges First Circuit To Head Off Hodgepodge Local Regulation Of Cable Television

(*Comcast v. Mills*)

> **"The trial court went out of its way to read a key word out of a federal statute. There was simply no need to do that."**
> —Corbin K. Barthold, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation today filed an *amicus curiae* brief urging the First Circuit to declare that a federal statute blocks the State of Maine from forcing cable-television providers to offer channels, and even individual programs, à la carte.

In 2019 Maine's legislature enacted LD 832, which says that a cable operator must "offer subscribers the option of purchasing access to cable channels, or programs on cable channels, individually." LD 832 clashes with § 544(f) of the federal Cable Act, which says that a State "may not impose requirements regarding the provision or content of cable services." Concerned about becoming subject to fifty states' distinct television packaging regimes, a group of cable providers sued to block LD 832's enforcement.

The district court acknowledged that, when given its plain meaning, § 544(f) preempts LD 832. Using the "context" of the Cable Act, however, the district court rejected the cable providers' preemption argument. The court then enjoined enforcement of LD 832 on First Amendment grounds.

WLF's brief focuses on the preemption issue, arguing that the court of appeals should find LD 832 preempted by the federal Cable Act. The trial court's use of "context" led it to conclude that, as used in § 544(f), "provision" actually means something like "content." Given that § 544(f) already says "provision *or content*," this reading makes no sense, and, as WLF argues, none of the material the trial court examined proves otherwise.

Celebrating its 43rd year, WLF is America's premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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