

STEPHEN F. LYNCH
8TH DISTRICT, MASSACHUSETTS

Congress of the United States
House of Representatives
Washington, DC 20515-2108

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON CAPITAL MARKETS,
SECURITIES, AND INVESTMENTS
SUBCOMMITTEE ON TERRORISM AND
ILLICIT FINANCE

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM
RANKING MEMBER, SUBCOMMITTEE ON
NATIONAL SECURITY
SUBCOMMITTEE ON INFORMATION TECHNOLOGY

ASSISTANT DEMOCRATIC WHIP

The Honorable Ajit Pai
Chairman
Federal Communications Commission
455 12th Street NW
Washington, DC 20544
Re: MB Docket 05-0311

December 20, 2018

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LYNCH.HOUSE.GOV

Dear Chairman Pai:

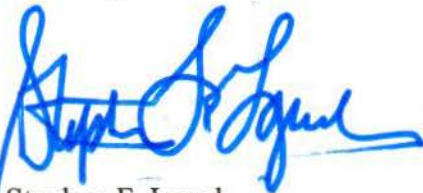
This letter is regarding the Federal Communications Commission's (FCC) September 25th Further Notice of Proposed Rule Making in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05-0311 (Proposed Rule Making).

I write in support of the comments of Massachusetts Community Media, Inc. (MassAccess) and the Cable Act Preservation Alliance (CAPA). Like MassAccess and CAPA, I disapprove of the proposals and tentative conclusions set force in the Proposed Rule Making. For the past ten years, Stoughton Media Access Corporation has served as a crucial source of information for my constituents.

These proposed regulations could negatively impact that in the coming years by jeopardizing critical funding for public, educational, and governmental (PEG) stations. By defining "franchise fee" in an overly broad fashion to include "in-kind" support, the FCC's proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels, something that was never the intent of the 1984 Cable Act.

While the Commission considers this docket, I encourage you to avoid actions that could threaten the sustainability of PEG stations including Stoughton Media Access Corporation.

Sincerely,



Stephen F. Lynch

Member of Congress



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 2, 2019

The Honorable Stephen F. Lynch
U.S. House of Representatives
2268 Rayburn House Office Building
Washington, D.C. 20515

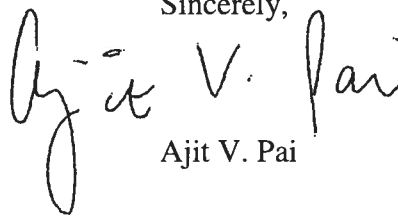
Dear Congressman Lynch:

Thank you for your letter regarding the impact that the statutory cap on franchise fees has on funding for public, educational, or governmental (PEG) channels. As you know, the Communications Act limits franchise fees to 5% of cable revenues and defines “franchise fee” to include “any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such.” 47 U.S.C. § 542(g)(1). The U.S. Court of Appeals for the Sixth Circuit has held that the terms “tax” and “assessment” can include nonmonetary exactions. *Montgomery County, Md. et al. v. FCC*, 863 F.3d 485, 490-91 (6th Cir. 2017).

In response to a remand from the Sixth Circuit, the Commission unanimously issued its Second Further Notice of Proposed Rulemaking to consider the scope of the congressionally-mandated statutory limit on franchise fees. Among other things, the Commission observed that Congress broadly defined franchise fees; indeed, with respect to PEG channels, it only excluded support payments with respect to franchises granted prior to October 30, 1984 as well as capital costs required by franchises granted after that date. 47 U.S.C. § 542(g)(2)(B) & (C). The record of this proceeding remains open, and I encourage all interested parties and stakeholders—including local franchising authorities—to provide us with relevant evidence regarding these issues so that the Commission can make the appropriate judgment about the path forward, consistent with federal law. Your views will be entered into the record of the proceeding and considered as part of the Commission’s review.

Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Pai