



February 7, 2019

ELECTRONICALLY FILED

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW – Lobby Level
Washington, DC 20554

Re: In the Matter of 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 No. 05-311)

Dear Secretary Dortch:

The National Association of Telecommunications Officers and Advisors (NATOa) files this letter in response to a letter filed on February 4, 2019, by Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. on behalf of a collection of cable companies ("Mintz letter" available at <https://www.fcc.gov/ecfs/filing/102040420504799>).

NATOa writes to challenge the probative value of the Mintz letter. None of the cable operators represented in the letter filed comments or reply comments to voice objections to the non-financial obligations of franchises they hold or in support of the Commission's proposed rules. The Mintz letter does not provide a single specific complaint or offer the name of a single alleged offending franchising community.

These omissions not only raise serious questions as to the purpose of the letter, they also preclude communities from responding to the allegations or presenting the "other side" of the story. As we have seen in the record of this proceeding, when given the opportunity to respond to specific allegations, local governments provide clarification and detail that should be important in the Commission's decision-making process.¹ By not providing such an opportunity, the Mintz letter adds nothing to the record.

NATOa stands by its filings in this docket—and those of the thousands of local governments and PEG providers who filed in opposition to the Commission's proposed rules—which make clear that non-financial obligations authorized by Congress in locally negotiated franchises are not subject to offsets against franchise fees, and that the Cable Act does not support the Commission's proposed mixed-use rule. The paucity of substantive comments by cable operators in the FNPRM ought to be instructive to the Commission as to the lack of an issue in the marketplace.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Werner", written over a light blue horizontal line.

Nancy Werner
General Counsel

¹ See, e.g., Reply Comments of the City of Philadelphia, *et al.*; Reply Comments of the City of New York; Reply Comments of the Northern Dakota County Cable Communications Commission; Reply Comments of the Alliance for Communications Democracy, *et al.*; Reply Comments of the City of Richland, Washington; Reply Comments of the City of Corvallis, Oregon; Reply Comments of the Vermont Public Utility Commission.