

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Implementation of Section 621(a)(1) of the Cable	)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended	)	
by the Cable Television Consumer Protection and	)	
Competition Act of 1992	)	

**COMMENTS OF North Andover CAM**

North Andover CAM appreciates the opportunity to file comments on the Second Further Notice and Proposed Rulemaking (“FNPRM”) in the above-referenced docket. North Andover CAM, We strongly oppose the tentative conclusion in the FNPRM that cable-related in-kind contributions, such as those that allow our programming to be viewed on the cable system, are franchise fees.

This would have an impact to our budget of reduced franchise fees; the long-standing agreement from the cable operator that such obligations are not franchise fees; using fair market value to determine the amount to be considered a franchise fee will lead to arbitrary deductions; etc. Provide examples of the programming you provide that is only available through your channel, the benefit to the community and cable users; and the impact to the community of a loss of this programming.

We reject the implication in the FNPRM that PEG programming is for the benefit of the local franchising authority (LFA) or a third-party PEG provider, rather than for the public or the cable consumer. As demonstrated above, North Andover CAM provides valuable local

programming that is not otherwise available on the cable system or in other modes of video delivery such as satellite. Yet the Commission tentatively concludes that non-capital PEG requirements should be considered franchise fees because they are, in essence, taxes imposed for the benefit of LFAs or their designated PEG providers. By contrast, the FNPRM tentatively concludes that build-out requirements are not franchise fees because they are not contributions to the franchising authority. The FNPRM then requests comment on “other requirements besides build-out obligations that are not specifically for the use or benefit of the LFA or an entity designated the LFA and therefore should not be considered contributions to an LFA.”<sup>1</sup> PEG programming fits squarely into the category of benefits that do not accrue to the LFA or its designated access provider, yet the Commission concludes without any discussion of the public benefits of local programming that non-capital PEG-related provisions benefit the LFA or its designee rather than the public at large.

We appreciate the opportunity to add to the record in this proceeding.

Respectfully submitted,  
Peter Baylies

*Peter Baylies*

Board member, North Andover CAM  
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