

**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 CITY OF LAKEWOOD, CALIFORNIA**

CITY OF LAKEWOOD, CALIFORNIA appreciates the opportunity to file comments on the Second Further Notice of Proposed Rulemaking ("FNPRM") in the above-referenced docket. The City strongly opposes the tentative conclusions in the FNPRM that cable-related in-kind contributions are franchise fees and that local governments have no authority regarding cable operators' use of the rights of way to provide non-cable services.

The City of Lakewood is a contract city, established in 1954. Its population is 80,967, and is served by three cable operators in the community. The cable operators (which are state franchises) provide approximately \$1.2 million from franchise fee revenues and \$160,000 from PEG revenues. Both of these revenues provide valuable funding for the community through the City's award-winning PEG channel.

Reduced cable franchise and PEG fees will have a dramatic impact on the services provided to the community. On an annual basis, the City's PEG channel produces over 100 programs that educate the public on various subjects, including City Council meetings, community events, regional affairs, transportation matters and other important and wide-ranging issues that affect the

community. If cable franchise and PEG fees are reduced due to this proposed rule, the City's channel will be forced to cease operations as it is entirely funded by those sources.

In addition, the FNPRM would allow "cable-related in-kind contributions" to be deducted from the franchise fees that are remitted to the City. This would erode cable franchise fees even further. Currently, through a longstanding agreement with one of the cable operators, the City receives the following in-kind contributions: PEG channel capacity, transmission of PEG programming, and complementary cable services to public buildings. These contributions directly benefit the public. The FNPRM also proposes that reductions in franchise fees would be calculated based on the fair market value of the in-kind contributions. The City opposes this methodology because it will result in a greater reduction of franchise fees than a cost-based methodology. Franchise obligations such as PEG channels and local customer service obligations are more appropriately considered community benefits, not contributions to local franchising authorities, and, like build-out obligations, should not be considered franchise fees.

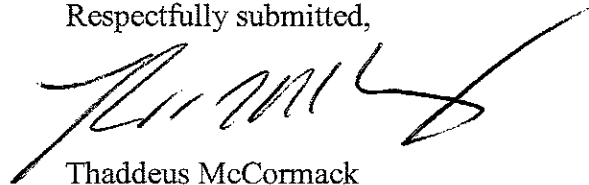
The FNPRM proposes to prohibit local governments from regulating the facilities and equipment used by cable operators in the provision of non-cable services. The City opposes this because it puts public safety at risk if cable companies can install non-cable facilities without any local review and approval requirements. This preemption would extend to fees for use of the rights of way, even where the cable franchise authorizes use of the rights of way only for cable services, and even though the cable franchise fee is limited to revenue from cable services. This means that the cable company can use local rights of way for any purpose and provide no additional compensation to the local government for additional uses of the rights of way. As an example, cable companies could install small wireless facilities in the rights of way to enable wireless

services without any additional compensation to the local government, which presents an uneven playing field with telecommunications carriers that adhere to the rules.

In conclusion, the City strongly opposes the tentative conclusions in the FNPRM that cable-related in-kind contributions are franchise fees and that local governments have no authority regarding cable operators' use of the rights of way to provide non-cable services.

For the Commission's reference, here is a link to videos that the City's PEG channel has produced that are presented to the community. [<https://vimeo.com/citytvlakewoodca>]

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Thaddeus McCormack', written over a horizontal line.

Thaddeus McCormack  
City Manager  
5050 Clark Avenue  
Lakewood, California 90712

October 25, 2018