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SECOND DISTRICT, NEW HAMPSHIRE

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Congress of the United States  
House of Representatives

April 19, 2019

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The Honorable Ajit V. Pai  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

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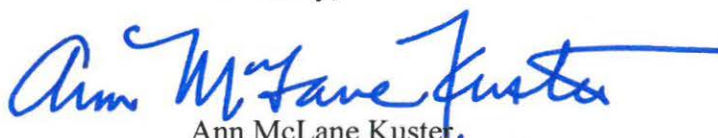
Dear Chairman Pai:

I am writing you regarding the recent action taken by the Federal Communications Commission (FCC) to proceed with the "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). Should this proposal move forward, it would potentially alter the terms of the governing agreements between Local Franchising Authorities (LFA) and cable operators. This proposal puts at risk critical funding for Public, Educational, or Governmental (PEG) stations as well as broadband connections to schools and other anchor institutions. PEG stations provide my constituents in New Hampshire with an important resource for monitoring local government proceedings, obtaining local news, and consuming other locally produced programming including emergency notifications. I hope that the FCC will take these concerns into consideration and ensure the sustainability of PEG stations is not threatened by your final rule.

The Cable Communications Act of 1984 gives towns and cities across the country the authority to require, as part of cable franchise agreements, that cable operators meet certain community needs by setting aside channel capacity and providing adequate facilities, equipment, or support for PEG stations. However, the FCC's current proposal would result in a significant reduction in financial support for local programs by allowing cable operators to deduct in-kind contributions from the franchise fees that go to funding public programming. If the proposed rule is adopted, I am concerned PEG stations across my district will lose their ability to fulfill their vital mission.

PEG stations provide local communities with access to critical information and represent an important platform for local viewers and fulfill a crucial role in the communities they serve. As the FCC proceeds on this issue, I urge you to closely examine the impact the proposed changes will have on PEG stations.

Sincerely,

  
Ann McLane Kuster  
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

April 22, 2019

The Honorable Ann McLane Kuster  
U.S. House of Representatives  
320 Cannon House Office Building  
Washington, D.C. 20515

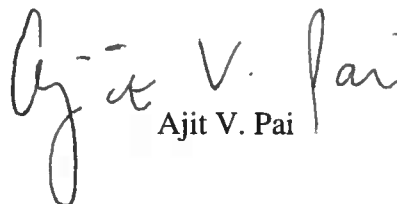
Dear Congresswoman Kuster

Thank you for your letter regarding the impact that the statutory cap on franchise fees has on funding for public. 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