



CITY OF LA MIRADA

DEDICATED TO SERVICE

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Electronically via: <https://www.fcc.gov/ecfs/filings>
LETTER OF OPPOSITION

Chairman Ajit Pai
Commissioner Michael O'Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

SUBJECT: MB DOCKET NO. 05-311. SECOND FURTHER NOTICE OF PROPOSED RULEMAKING. 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.

Honorable Chairman Pai and Commissioners O'Rielly, Carr, and Rosenworcel:

On behalf of the City of La Mirada, I am writing to oppose the Further Notice of Proposed Rulemaking (FNPRM), which proposes to allow cable companies to deduct the fair market value for a wide range of public benefits from their franchise fee obligations, namely public, educational, and government (PEG) channel capacity and transmission.

In 2006, California passed the Digital Infrastructure and Video Competition Act, which ensured that local public rights-of-way remained under control of cities and counties, and that a sufficient amount of capacity on cable networks was preserved for public, educational, and government (PEG) access channels.

Unfortunately, while the FCC would normally exempt from their Orders states with a centralized franchising authority that have preserved such policies, this FNPRM provides no such exemption, threatening to undermine such priorities. As proposed, the FNPRMs broad definition of all "cable-related, in-kind contributions" other than PEG capital costs and build out requirements could be treated as "franchise fees," meaning:

- Cable operators currently paying the typical five percent franchise fee permitted by federal law will be able to reduce their current franchise fee payment by the fair market value of all in-kind contributions, with the exception of PEG capital costs required by the franchise associated with the construction of PEG access facilities and build out requirements.
- There will be significant reductions in cable franchise fees, depending on how the "fair market" value for PEG capacity and transmission is calculated within any given jurisdiction.
- PEG programming would be severely limited, if not eliminated in some or most jurisdictions.

PEG programming offers a host of community benefits, including public access channels, educational access channels, and government access channels all aimed at providing locally beneficial information. Government access channels are often the easiest and best ways for local government to be transparent, often televising city, county, school district, and other government meetings or live local election returns, town hall meetings, public debates, and other public policy topics.

The "fair market value" of such services may be impossible to discern and would likely be a source of litigation between cable operators and local governments. The FNPRM further threatens the use of local right-of-way for non-cable related purposes.

The FNPRM also proposes to prohibit local governments from regulating the facilities and equipment used by cable operators in the provision of non-cable services, such as wireless communications services. If preempted from regulating these installations outside the franchise (since the franchises do not generally address the use of rights-of-way for non-cable facilities), local governments may lose their authority to manage a cable company's deployment of non-cable facilities, such as "small cells." Cable companies could avoid having to pay fair compensation to the local government for the use of publicly funded assets in the rights-of-way, as well as install "small wireless facilities" with little to no public input, and without having to meet any aesthetic or equipment size requirements.

Our residents stand to lose the most in terms of the public benefits they receive and the input they can provide for facilities installed in their own backyards. The FCC should instead consider ways that cable operators can improve their services, help close digital divides, and expand deployment to rural and lower income communities.

For the reasons addressed in this letter, the City of La Mirada respectfully opposes the FNPRM and urges the FCC to reject the deterioration of PEG services and fair use of the public right-of-way.

Sincerely,

CITY OF LA MIRADA



Larry Mowles
Mayor

LM:JB:jh

cc: Congresswoman Linda T. Sanchez
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