



City of
Salisbury
Jacob R. Day, Mayor

November 9, 2018

Chairman Ajit Pai
Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

RE: 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,

The City of Salisbury, Maryland is strongly opposed to the proposed changes presented in the Further Notice of Proposed Rulemaking (FNPRM), which proposes to allow cable companies to deduct the fair market value from a wide range of public benefits from their franchise fee obligations, namely public, education, and government (PEG) channel capacity and transmission. It is important that local public rights-of-way remain under control of local municipalities, and that a sufficient amount of capacity on cable networks is preserved for PEG access channels. These channels—and in our case, our one (1) channel, PAC 14—provide valuable information and education for the community as well as allowing local citizens to participate in local government.

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. Public access channels are available for use by the general public, usually created by a diverse variety of individuals, groups, and organizations within a community that is non-commercial in nature and generally free from editorial oversight. Educational channels are typically dedicated for learning institutions, such as local schools, colleges, and/or universities for school related activities, fully televised courses of instruction, and other educational purposes. Government access channels are often the easiest and best ways for the local governments 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 City of Salisbury's only local PEG channel, PAC 14, is a public access channel that provides community oriented programming to keep citizens informed and connected.

To allow channel capacity to be considered "in-kind" contributions subject to the 5% cap that could be used to offset the franchise fee revenues received by local municipalities would limit the ability of the local municipality to control the use of publicly funded rights-of-way. It would severely limit the revenue of the municipality to use these funds for the public good, giving the cable monopoly in our area control of public rights-of-way. This decrease in funds would also limit the ability of the City of Salisbury to fund the PEG channel.



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Allowing the "fair market value" of such services, especially "channel capacity" to be decided by the cable operator is not a prudent decision. The assessed value of these services from the cable operator would certainly reduce, if not eliminate, the franchise fee funding. Further, 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. Most regrettably, however, is that this FNPRM threatens to limit or eliminate PEG access channels all meant to better help inform and empower the public. The potential loss of this public benefit alone should be concerning enough for the FCC to reject this FNPRM. Unfortunately, the FNPRM further threatens the use of local right-of-ways for non-cable related purposes as well.

Fair and appropriate use of the public right-of-way is the fundamental policy principle for the imposition of a cable franchise fee and any other reasonable conditions required to preserve the character of each community. While the cable and telecommunications industry continues to attack the responsibility of local governments to protect the public health and safety of their own communities, 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. Unfortunately, this FNPRM continues a recent pattern of lowering standards and public responsibility for the communications industry as a whole.

It is the position of the City of Salisbury that cable companies use the public rights-of-way to do business, and the provision of PEG channels is part of their obligation to the public. We believe that cable companies that utilize public right-of-ways have an obligation to support the community in which they operate as a monopoly, and that PEG organizations exist for the good of the constituencies and communities which they serve, and provisions which support PEG media should not be redefined as "franchise fees."

For these reasons, the City of Salisbury strongly **opposes** the FNPRM and respectfully urges the FCC to reject the deterioration of PEG services and fair use of the public right-of-way.

Respectfully,

Jacob R. Day,
Mayor

CC: Julia Glanz, City Administrator