

**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 BRIC

BRIC appreciates the opportunity to file comments on the Second Further Notice and Proposed Rulemaking (“FNPRM”) in the above-referenced docket. BRIC is the Cable Access Operator for the Borough of Brooklyn in the City of New York and has been the CAO since 1988. BRIC is a multi-media arts facility; we are the leading presenter of free cultural programming in Brooklyn, and one of the largest in New York City. We present and incubate work by Brooklyn artists and media-makers, reflecting the amazing cultural diversity of Brooklyn. We currently program six cable channels on each of four cable providers, including Altice, Charter, Verizon and RCN. Our programs reach over 600,000 homes via cable in New York City, are streamed live to a worldwide audience and garner more than 5 million views per year.

The vast majority of our cablecasts are provided by our community producers—more than 500 local series producers per quarter assisted by many thousands of volunteers. These productions would not be possible without our free-to-the-public facilities and equipment, which include five studios, dozens of professional quality HD cameras, professional edit suites, plus a mobile media lab and portable studio switcher for working on location at community organizations. To be sure that this equipment is accessible to all members of the community, we offer classes from the most

basic camera use to our renowned Documentary Intensive workshop rivaling the educational value of accredited film schools. We train more than 5000 students per year. Among them are artists from traditional BRIC art communities, including painters, sculptors, photographers, dancers and musicians who gain a new form of expression.

If outside proof of the quality of our program is needed, note that our community productions and staff-curated productions together have garnered more than a half-dozen Emmy awards in the nation's largest, most competitive market and have been honored in more than a dozen international film festivals, including Tribeca and Sundance.

We strongly oppose the tentative conclusion in the FNPRM that cable-related in-kind contributions, such as those that allow community programming to be viewed on the cable system, are franchise fees. This is in contradiction to the original language and congressional intent of the law and contrary to decades of practice.

Furthermore, our CAO agreements represent long-standing affirmation by our cable operators and all levels of government that in-kind obligations are not franchise fees. Our meaningful and important work for the community is almost entirely dependent upon our financial agreement with the cable companies; without them our services to the public would cease to exist. It is not fair to allow these massively profitable corporations to determine an arbitrary "fair market value" for in-kind services when the people who own this valuable public-right-of-way are arbitrarily prevented from charging "fair market value" by the same ruling. Doing so will eliminate services such as our work with the Brooklyn DA office's Project Redirect which uses our video program to help young first-time offenders process and straighten out their lives. It would end our work with Made-In-NY's Production Training Program that trains young people to industry standards, places them with production companies in NY's thriving film/television industry, and

pays their initial salary. And it would end our community center—which provided an opportunity for leaders of these two programs to meet, resulting in the DA Project Redirect establishing a link to Made-In-NY’s professional training and employment program, allowing those who need it most a chance for a new start in life—it would end our problem-to-productivity pipeline. The negative impact on the Brooklyn community would be as disastrous as the program is now exemplary.

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 can be seen, BRIC provides valuable local programming that is not otherwise available locally on cable or via 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 imposed for the benefit of LFAs or their designated PEG providers. This is just incorrect. The public-rights-of-way are owned and maintained jointly by all the members of the public. The cable operators in NYC take in billions of dollars of revenue through their use of the public-rights-of-way. PEG Access is one of the ways in which they pay for that usage. PEG Access serves the public directly in an open way unrivalled by any entity, other than a public park or library.

We note that the FNPRM tentatively concludes that build-out requirements are not franchise fees because they are not contributions to the franchising authority. Similarly, PEG programming fits squarely into the category of benefits that do not accrue to the LFA or its designated access provider: we provide free and open access for the public to training, equipment and channel time for free and unfettered speech. In fact, we provide a source of programming that is a significant factor in the consumer choice to subscribe to cable rather than competitive systems. We are a primary source of local loyalty and goodwill for the cable companies. 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 or the cable company.

We invite the Commission to view just two examples of the direct public benefits provided by local content in PEG programming. The first link is to the NY Emmy winning “The Johnny Effect” <https://www.youtube.com/watch?v=f-AGRv9aq1g>, produced by BRICs Brooklyn Free Speech in conjunction with Turning Point Brooklyn, a local 501(c)3 that provides showers for homeless and indigent Brooklynites. The second link is an award-winning PSA produced with ECPAT USA <https://www.youtube.com/watch?v=KlilVVJ4seBA>, aimed at helping the hotel industry recognize the signs of sex trafficking. This work changes lives.

We appreciate the opportunity to add to the record in this proceeding. Please feel free to contact us for clarification on our comments or for further input on your information gathering process.

Respectfully submitted,

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