



THE TOWN OF  
CORTE MADERA  
MARIN COUNTY CALIFORNIA

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November 12, 2018

## VIA ELECTRONIC FILING

Chairman Ajit Pai  
Commissioner Michael O'Rielly  
Commissioner Brendan Carr  
Commissioner Jessica Rosenworcel  
Federal Communications Commission  
445 12<sup>th</sup> 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 and Commissioners O'Rielly, Carr, and Rosenworcel:

The Town of Corte Madera joins with the League of California Cities, the Marin Telecommunications Agency, and other local and regional governments in strongly opposing 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 streamlined the deployment of cable services by making the California Public Utilities Commission (CPUC) the sole franchising authority in the state and preserved many of the provisions commonly found in local franchise ordinances. It was the intent of the state legislature to streamline deployment while keeping local government revenues intact, ensuring 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 our 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 net cable franchise fees, depending on how the “fair market” value for PEG capacity and transmission is calculated within any given jurisdiction. At this point we have no idea what methodology or factors the cable operators will use to determine the “fair market value”. The FNPRM does not provide guidance to help us identify the potential financial impact, nor does it help us understand why this methodology is appropriate. Using “fair market value” is arbitrary and capricious, especially since the FNPRM has left it to the cable operators to determine the financial criteria to be used to set the “fair market value”.
- Economically, Cable companies do not actually pay Franchise or PEG fees. These fees are paid by cable subscribers and merely pass through the cable companies to the cities. The FNPRM will not change the amount currently charged to cable subscribers, it merely redirect the proceeds from local jurisdictions to the cable companies effectively “zeroing-out” PEG fees available for PEG services. As a result, PEG programming would be severely limited, if not eliminated entirely, in many jurisdictions. This is unacceptable.

Regarding programming, our Town like many others, is losing local information sources, like routine local broadcast news coverage of community events and activities. In addition, local print media is affected by the onslaught of nationally generated on-line content, social media and sources of information that lack provenance.

In Marin County where Corte Madera is located, PEG channels are widely viewed. The PEG services delivered by our Designated Access Provider, the Community Media Center of Marin (CMCM) delivers thousands of hours of city, town and county government meetings, roundtable discussions about local issues of concern and interest, and candidate/issue forums during elections. Areas that CMCM particularly addresses are providing live stream and televised local government meetings in every jurisdiction (which enable citizens to monitor local government activities), interviews with prospective elected officials during election season, and training academies for youth to provide PEG programming including science topics, local sporting events, and others, all of which are often also produced by the students. No other channels provided by the cable operators deliver this kind of content, which is immediate and relevant. A significant void will exist in our community if these programs and community services are reduced or eliminated. The “fair market value” of such services may be impossible to discern, will likely be a source of litigation between cable operators and local governments and is not a value contributed by the cable operators.

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. 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

FRNPRM continues a recent pattern of lowering standards and public responsibility for the communications industry as a whole.

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

Sincerely,



Bob Ravasio

Mayor

Town of Corte Madera

cc: Congressman Jared Huffman  
Nancy Hall Bennett, League of California Cities, [nbennett@cacities.org](mailto:nbennett@cacities.org)  
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