

**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 THE CITY OF ANN ARBOR, MICHIGAN

The City of Ann Arbor, Michigan, appreciates the opportunity to file comments on the Second Further Notice and Proposed Rulemaking ("FNPRM") in the above-referenced docket. Since 1973, the City of Ann Arbor's Community Television Network (CTN) has provided free media production workshops to residents and non-profit organizations and produced local Public, Education and Government (PEG) programming about and from the Ann Arbor community, including local government programming and programming from the schools. CTN is one of the oldest access television operations in the country and offers our community award-winning local programming. Ann Arbor does not have a local daily newspaper or local media outlets, so our residents rely on CTN for gavel-to-gavel coverage of public meetings, and coverage of elections, high school sports, and important topics in our community meetings. Today, CTN offers:

- Local programming on Comcast cable channels 16, 17, 18 and 19 and AT&T channel 99
- Live online streaming and video on demand of local content.

- Coverage every month of approximately 18 City Council, County Board of Commissioners, and other local government board and commission public meetings
- Media training and outreach for dozens of agency and nonprofit partners

The cable providers in Ann Arbor operate under uniform cable franchise agreements with terms set by the State of Michigan.

CTN is funded solely via cable franchise fees and PEG fees that are used for PEG-related capital purposes. We strongly oppose the tentative conclusion in the FNPRM that cable-related in-kind contributions, such as those that allow our programming to be viewed on the cable system, are franchise fees, subject to a total maximum of 5% of gross revenue. Such a determination by the Commission would cripple our ability provide cable television coverage of our local government and community events, and in the absence of a daily newspaper or a local television station, this would in effect completely deprive many of our citizens of access to important information about their community.

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 illustrated above, CTN provides valuable local programming that is not otherwise available on the Comcast or AT&T cable systems or in 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, in essence, taxes imposed for the benefit of LFAs or their designated PEG providers. By contrast, the FNPRM tentatively concludes that build-out requirements are not franchise fees because they are not contributions to the franchising authority, and because the build out will result in additional customers who will be a source of

revenue to the cable provider. Many cable customers subscribe to cable service to be able to view the PEG channels, and are a source of revenue to the cable provider. Support for PEG channels should be treated the same as build out requirements. In addition, under the franchise agreement terms set by the State of Michigan, some costs for equipment to enable a cable provider to receive and carry the PEG channels have been shifted from the cable provider to the LFA, although those are costs the PEG fees can be used to cover.

The FNPRM requests comment on “other requirements besides build-out obligations that are not specifically for the use or benefit of the LFA or an entity designated the LFA and therefore should not be considered contributions to an LFA.”¹ PEG programming fits squarely into the category of benefits that do not accrue to the LFA or its designated access provider, 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.

We invite the Commission to view for themselves the important benefits provided by local content in PEG programming. CTN produced a brief video that describes the value of PEG programming to the Ann Arbor community. CTN: Create, Connect Communicate Video: <https://www.youtube.com/watch?v=tHfvhKZMFoY>.

The City of Ann Arbor also responds to the request for comment on whether the proposed changes should apply to state-issued franchises or franchises with terms regulated by a state.² Ann Arbor believes they should not. States such as Michigan that have imposed franchise requirements respond to the needs of the public and the LFAs in the state, as well as to the cable providers. Changes to those requirements by the Commission will require a process to revise legislation and

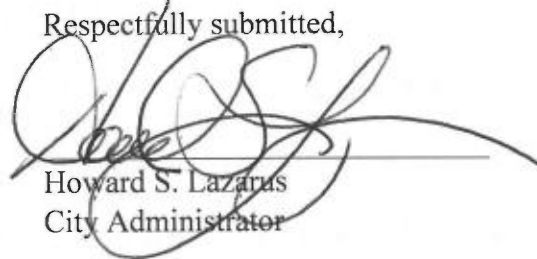
¹ FNPRM ¶ 21.

² FNPRM ¶ 32

franchise agreements that are in place, and may cause a great deal of confusion while the issues of preemption and conflict are sorted out.

We appreciate the opportunity to add to the record in this proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'H. Lazarus', is written over a horizontal line. The signature is stylized with large, sweeping loops.

Howard S. Lazarus
City Administrator

November 14, 2018