



## ALLEN COUNTY PUBLIC LIBRARY

900 Library Plaza • Fort Wayne, IN • 46802 • Greta K. Southard, Director

**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 ALLEN COUNTY PUBLIC LIBRARY

Allen County Public Library (ACPL) appreciates the opportunity to file comments on the Second Further Notice and Proposed Rulemaking ("FNPRM") in the above-referenced docket. [Allen County Public Library, located in Fort Wayne, IN serves the largest county in the state. ACPL operates two public access channels and one government access channel cable cast on cable providers Comcast and Frontier, with a potential combined viewership of 80,000 subscribers. ACPL strongly oppose the tentative conclusion in the FNPRM that we should treat cable-related, "in-kind" contributions required by a franchising agreement as "franchise fees". These in-kind provisions can include, such items as those that allow our programming to be viewed on the cable system, providing cable service to schools, government and safety facilities and libraries. The inclusion of these provisions as a deduction to the franchise fees of 5% to the LFA would result in the loss of over \$400,000.00 annually to the Library, community and surrounding Governmental authorities. ACPL strongly opposes the allowance of using fair market value to determine the amount to be considered a franchise fee as to do so will lead to arbitrary deductions; and is in opposition of the long-standing agreement in place since 1981 from the cable operator that such obligations are not franchise fees.

The previously mentioned two public channels are utilized for locally produced programming providing local content in the community interest that is not available on other franchised cable



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systems. These programs include, but are not limited to, County government meetings, local sports (youth football, College Volleyball, professional Komet Hockey), local cooking shows, concert entertainment, and political talk shows. ACPL has a history of hosting local, state, and national representatives to provide information as guest on variety of talk shows. CityTV is the Government Access Channel that is operated by ACPL for the City of Fort Wayne, and provides a variety of meeting coverage, and produces a live call in show for city council members, on topics related to city services and service projects that will affect residents of the community.

The Allen County Public Library rejects 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 demonstrated above, Allen County Public Library provides valuable local programming that is not otherwise available on the cable system 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. Build out requirements have historically been an effort by the LFA to require the cable company to provide inclusion and opportunity for residents to both be served by the cable provider along with the opportunity for the residents to have PEG services available to them at no cost to the residents, thusly serving the community. 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. ACPL objects to this statement in that the benefit of services provided directly impact transparency in Governmental operations, educational value and media sharing and education for schools in the community along with the availability of an informational resource for use of Non-profit and support organizations providing services to the residents of the community. While respectful of the LFA's role in administration of the PEG cable channels, these services are in totality given in support of the public, educational and governmental needs of the residents that are cable subscribers, (customers).

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

Respectfully submitted,

Greta K. Southard

Director

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