



## ***TOWN OF DEERFIELD***

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December 12, 2018

The Honorable Ajit Pai, Chairman  
The Honorable Michael O'Rielly, Commissioner  
The Honorable Brendan Carr, Commissioner  
The Honorable Jessica Rosenworcel, Commissioner

Federal Communications Commission  
455 12<sup>th</sup> Street, Southwest  
Washington, DC 20544

**Re: MB Docket No. 05-311**

Dear Chairman Pai and Commissioners:

The Deerfield Selectboard writes to support the Comments of the Cable Act Preservation Alliance ("CAPA") and to disapprove the proposals and tentative conclusions set forth in the FCC's September 25 Second Further Notice of Proposed Rule Making in *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*, MB Docket 05- 311.

Deerfield is a rural community of approximately 5000 residents in western Massachusetts. In a world of rapidly evolving technology, drastically shrinking print media, and questionable data sources on social media, the role of local cable access television bringing news and community activity directly to subscribers cannot be understated.

The citizens of Deerfield, and the neighboring towns of Conway, Sunderland, and Whately have shared in the benefits that Frontier Community Access Television (FCAT) provides as a Public, Educational, and Government access facility. FCAT remains an important source of media communications throughout our communities, reaching subscribers through local cable TV channels, and thousands of viewers through posting and distribution of taped programming.

The Board appreciates the opportunity to comment on the Second Further Notice and Proposed Rulemaking ("FNPRM") in the above-referenced docket. In summary:

1. The Board opposes the notion that cable-related in-kind contributions, such as those that allow our programming to be viewed on the cable system, are franchise fees. Deerfield is in the third year of a ten-year contract with cable company Comcast, that calls for five (5%) percent of revenue to be allocated to the PEG access facility, and they should not be usurped by an FCC ruling.

Any in-kind deductions sought by the cable company should be over and above the negotiated commitments contained within the contract. Otherwise, the cable company will be able to set arbitrary market values and deductions which can result in a loss in revenue to FCAT and a resulting detriment to the quality and scope of the PEG access channels.

The idea that an FCC ruling could effectively circumvent active cable franchise license agreements is troubling, as those agreements were made in good faith, based partly on the levels of compensation that would support PEG access. Consumers, as well, will continue to pay the five percent fee for PEG access with no guarantee the funds will facilitate true PEG programming.

2. The Board rejects the implication 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.

FCAT provides valuable local educational, governmental, spiritual, and cultural programming and its local youth sports and town government programs are very popular. Such programs are not otherwise available on the cable system or in other modes of video delivery such as satellite. 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.

The presence of FCAT enables the residents of Deerfield to watch uniquely local programming about their community and local events and diverse issues of interest to them. This is the original intent of the PEG (Public, Educational, Government) provisions of the 1984 Cable Act – to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

By defining “franchise fee” in an overly broad fashion to include “in-kind” support, the FCC’s proposals will shift the fair balance between cable franchising authorities and cable operators and force communities to choose between franchise fees and PEG channels; something that was never the intent of the Act. The Board requests your consideration to protect PEG channels in our community and others by choosing not to adopt the proposals in the Second Further Notice.

Sincerely,

  
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Deerfield Selectboard  
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cc: Senator Edward Markey  
Senator Elizabeth Warren  
Congressman James McGovern