

RANKING MEMBER
COMMITTEE ON
FOREIGN AFFAIRS

COMMITTEE ON
ENERGY AND COMMERCE

HEALTH SUBCOMMITTEE
ENERGY AND POWER SUBCOMMITTEE

ASSISTANT DEMOCRATIC WHIP



Congress of the United States

House of Representatives

Eliot L. Engel

16th District, New York

2462 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3216
(202) 225-2464

DISTRICT OFFICES:
3655 JOHNSON AVENUE
BRONX, NY 10463
(718) 796-9700

6 GRAMATAN AVENUE
SUITE 205
MOUNT VERNON, NY 10550
(914) 699-4100

177 DREISER LOOP
ROOM 3
BRONX, NY 10475
(718) 320-2314

WEBSITE: <http://engel.house.gov>

FACEBOOK:
<http://www.facebook.com/RepEliotEngel>

TWITTER: @RepEliotEngel

930

December 13, 2018

The Honorable Ajit Pai
Chairman
455 12th Street NW
Washington, DC 20544

Re: MB Docket 05-0311

Dear Chairman Pai:

I write regarding the FCC's September 25 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 05-0311.

I am concerned that the FCC's current proposal could jeopardize critical funding for public, educational, and governmental (PEG) stations. As you know, the PEG provisions of the 1984 Cable Act were intended to enhance local voices, serve local community needs and interests, and strengthen our local democracy. This is exactly what PEG stations in the Bronx and Westchester achieve – they enable my constituents to watch and create uniquely local programming about their communities, and learn more about local events and issues of interest to them.

While the Commission considers this docket, I encourage you to avoid actions that could threaten the sustainability of PEG stations or their ability to provide meaningful and important content to local communities.

Sincerely yours,

Eliot L. Engel
Member of Congress



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

December 19, 2018

The Honorable Eliot L. Engel
U.S. House of Representatives
2462 Rayburn House Office Building
Washington, D.C. 20515

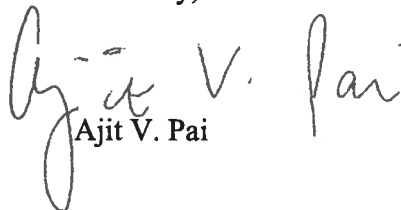
Dear Congressman Engel:

Thank you for your letter regarding the impact that the statutory cap on franchise fees has on funding for public, educational, or governmental (PEG) channels. As you know, the Communications Act limits franchise fees to 5% of cable revenues and defines “franchise fee” to include “any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such.” 47 U.S.C. § 542(g)(1). The U.S. Court of Appeals for the Sixth Circuit has held that the terms “tax” and “assessment” can include nonmonetary exactions. *Montgomery County, Md. et al. v. FCC*, 863 F.3d 485, 490-91 (6th Cir. 2017).

In response to a remand from the Sixth Circuit, the Commission unanimously issued its Second Further Notice of Proposed Rulemaking to consider the scope of the congressionally-mandated statutory limit on franchise fees. Among other things, the Commission observed that Congress broadly defined franchise fees; indeed, with respect to PEG channels, it only excluded support payments with respect to franchises granted prior to October 30, 1984 as well as capital costs required by franchises granted after that date. 47 U.S.C. § 542(g)(2)(B) & (C). The record of this proceeding remains open, and I encourage all interested parties and stakeholders—including local franchising authorities—to provide us with relevant evidence regarding these issues so that the Commission can make the appropriate judgment about the path forward, consistent with federal law. Your views will be entered into the record of the proceeding and considered as part of the Commission’s review.

Please let me know if I can be of any further assistance.

Sincerely,


Ajit V. Pai