

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Promoting the Availability of Diverse and Independent Programming)	MB Docket No. 16-41
)	

**REPLY COMMENTS OF THE
ALLIANCE FOR COMMUNITY MEDIA AND
THE ALLIANCE FOR COMMUNICATIONS DEMOCRACY**

Michael S. Wassenaar
President
Alliance for Community Media
1825 K Street, NW
Suite 400
Washington, DC 20006
(612) 298-3805

James N. Horwood
Tillman L. Lay
Jeffrey M. Bayne*
Spiegel & McDiarmid LLP
1875 Eye Street, NW
Suite 700
Washington, DC 20006
(202) 879-4000

April 19, 2016

* Jeffrey M. Bayne is admitted only in Maryland; he is not currently admitted to practice in the District of Columbia and is supervised by principals of the firm.

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The Alliance for Community Media (“ACM”) and the Alliance for Communications Democracy (“ACD”) hereby file their reply comments in response to comments filed on March 30, 2016 by AT&T, Comcast Corporation and NBCUniversal Media, LLC (“Comcast-NBCU”), and the National Cable & Telecommunications Association (“NCTA”) to the Notice of Inquiry (“NOI”) in this proceeding.¹

As set forth in our opening comments filed on March 30, 2016, public, educational, and governmental (“PEG”) channels are a leading source of unique, local, diverse, and independent programming. However, PEG channels and their viewers are facing substantial obstacles. Among other barriers, PEG channels are frequently excluded from access to interactive programming guides (also referred to as electronic programming guides or video programming guides), HD transmission, last-channel capabilities, and DVR capabilities. Attached as Appendix A is a compilation of additional letters from PEG channel operators describing some of the impediments from multichannel video programming distributors (“MVPDs”) they currently face.²

In their comments, AT&T, Comcast-NBCU, and NCTA address only the lack of access PEG channels have to interactive video programming guides; they do not address the many other obstacles that PEG programmers face and were raised in our opening comments, such as HD transmission, last-channel capabilities, DVR capabilities, and channel slamming.³

¹ *Promoting the Availability of Diverse and Independent Sources of Video Programming*, MB Docket No. 16-41, Notice of Inquiry, FCC 16-19 (Feb. 18, 2016).

² See also Comments of the Alliance for Community Media and the Alliance for Communications Democracy, Appendix A, MB Docket No. 16-41 (Mar. 30, 2016) (Appendix A provides letters from PEG channel operators detailing the obstacles they face from MVPDs).

³ Requiring cable operators to carry HD PEG programming to subscribers in HD is not only consistent with, but would seem to be compelled by the Cable Act and FCC rules. The Cable Act provides that cable operators may be required to set aside “channel capacity” for PEG use, 47 U.S.C. § 531(16)(A), and defines a “cable channel” as “a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of

But even on the single issue of interactive programming guides that they do address, industry comments mischaracterize the issue of including PEG channel programming information on interactive programming guides and are inconsistent with the actual experience of PEG channels. Also, contrary to AT&T's claims, its U-verse system continues to provide inferior treatment to PEG channels, which adversely impacts viewers' ability to access the uniquely diverse and independent programming that PEG channels provide.

I. NCTA'S AND COMCAST-NBCU'S ASSERTIONS THAT IT IS TECHNICALLY INFEASIBLE TO INCLUDE PEG CHANNEL INFORMATION IN PROGRAMMING GUIDES AND THAT ACCESS IS CONTROLLED BY THIRD-PARTY VENDORS ARE DISINGENUOUS.

NCTA claims that PEG channels' hyperlocal operation "accounts for why PEG channel program guide information is not handled in the same way as other program guide information presented by a cable system."⁴ It claims that providing programming information for PEG channels would require significant and expensive changes to typical cable system architecture.⁵ Comcast-NBCU similarly claims that, in certain circumstances, it is not technically feasible to include PEG channel information in the programming guide.⁶ These claims are inaccurate.

First, as explained in our opening comments, providing programming information for PEG channels on video programming guides does not require substantial or expensive upgrades to cable system hardware or software.⁷ Second, this purported explanation for why PEG channel

delivering a television channel (as [t]elevision channel is defined by the Commission by regulation)." 47 U.S.C. § 522(4). Commission rules, in turn, define a "television channel" as a "band of frequencies 6 MHz wide." 47 C.F.R. § 73.681. Thus, the "channel capacity" that may be set aside for PEG use must be the equivalent of 6 MHz per "channel." And such a channel could accommodate *both* an HD and an SD program stream over the same "channel."

⁴ Comments of National Cable & Telecommunications Association 9, MB Docket No. 16-41 (Mar. 30, 2016).

⁵ *Id.* at 10.

⁶ Comments of Comcast Corporation and NBCUniversal Media, LLC 35 n.87, MB Docket No. 16-41 (Mar. 30, 2016).

⁷ *See* Comments of the Alliance for Community Media and the Alliance for Communications Democracy, MB

program information is excluded from interactive programming guides is belied by the facts. In some locations, cable operators do in fact include PEG program information in their electronic programming guides, demonstrating that there are not large technical barriers to including PEG information in these guides. One of the more obvious examples of this is in Howard County, Maryland, where Comcast carries PEG channel information on its programming guide for the Community College and Government channels, but not the Board of Education or Public Access channels. Appendix A at 10. In fact, Howard County's Public Access channel used to have its programming information available on the operator's video programming guide until Comcast unilaterally decided to remove that information. *Id.* The problem here is clearly not a technical one, but rather cable operator indifference or hostility toward PEG.

Comcast-NBCU offers a different excuse: It asserts that third-party program guide vendors have control over what information is included in interactive programming guides and that PEG channels should simply deal directly with these third-party vendors to get their programming information included in the guides.⁸ But this assertion is also directly contradicted by the experiences of many PEG centers on the ground. As an example, Howard County, Maryland did reach out to the third-party program guide vendor after being instructed to do so by Comcast; the third-party vendor, however, stated that Comcast's approval was required before the vendor could include PEG programming information in the interactive programming guide. Appendix A at 10. Only after a lengthy back-and-forth did Comcast finally agree to offer access to interactive programming guides for some, but not all, PEG channels in Howard County, but Comcast still has not provided an effective date. *Id.* Howard County is not alone in facing this

Docket No. 16-41, Appendix B (Mar. 30, 2016). Appendix B is a copy of Exhibit 2 to ACD's comments in the Communications and Video Accessibility Act proceeding.

⁸ Comments of Comcast Corporation and NBCUniversal Media, LLC 34, MB Docket No. 16-41 (Mar. 30, 2016).

problem; as described in our opening comments, Charter Communications told the Mid Michigan Area Cable Consortium back in January 2015 that it would add PEG channels to its programming guide.⁹ The Mid Michigan Area Cable Consortium is still waiting for its PEG channels to be listed in Charter's interactive programming guide, and Charter has not responded to Mid Michigan Area Cable Consortium's calls or emails.¹⁰

Cable operators have provided PEG centers and their viewers with similarly inaccurate and misleading excuses about why cable system DVR capabilities do not work for PEG channels. The Jersey Access Group (JAG) describes the responses that Cablevision gave to a viewer seeking to record a town council meeting. Appendix A at 13. Cablevision initially told the viewer that the PEG channel could not be recorded because it was an analog signal, which was not true. Cablevision then told the viewer that copyright law prevented recording of the PEG channel, which was also not true. *Id.* In fact, Cablevision's new cloud-based recording system prevents even manual recording (in addition to recording through an interactive programming guide) of PEG channels.

Finally, NCTA tries to belittle the adverse impact on PEG channel access and viewership resulting from the exclusion of PEG channel programming information from interactive programming guides by claiming that local governments can make programming information available on their own websites. Local governments and PEG centers do that (so do virtually all commercial programmers whose programming is included in the electronic programming guide). But why exclusive reliance on websites should be sufficient for PEG channels but not the other channels on a cable operator's system, NCTA does not, and cannot, explain. Many, if not most,

⁹ Comments of the Alliance for Community Media and the Alliance for Communications Democracy 7, MB Docket No. 16-41 (Mar. 30, 2016).

¹⁰ *Id.*

video channel viewers search for and find channels on the electric program guide; if they did not, there would be no such guide at all. Moreover, including programming information on the interactive programming guide is essential to use most cable system DVR capabilities.

Further, reliance on the program guide rather than the internet is particularly important to the diverse and unique audiences served by PEG channels. For instance, Falmouth Community Television explains that it serves a large senior population, Appendix A at 6, yet only 58% of adults over the age of 65 nation-wide use the internet.¹¹ NCTA's dismissive suggestion that PEG channels should simply be satisfied with making their programming information available only online is itself confirmation that the cable industry treats PEG channels differently, and more unfavorably, than all other channels. And that anti-PEG discrimination by industry injures those communities who in particular seek the diverse and independent programming offered by PEG channels.

II. AT&T'S U-VERSE PEG PROGRAMMING CONTINUES TO HINDER ACCESS TO PEG CHANNELS' DIVERSE AND INDEPENDENT PROGRAMMING.

AT&T claims that its U-verse "PEG product" has "many advantages over other PEG programming."¹² AT&T also claims that the NOI refers to a "stale" petition about its U-verse PEG service raising issues that are now "largely moot."¹³ AT&T is wrong on both counts.

AT&T offers no reason—nor is any apparent—why the fact that the *ACM PEG Petition* is still pending should in any way limit the Commission's consideration of the ways in which AT&T's

¹¹ Pew Research Center, *Americans' Internet Access: 2000-2015* (June 26, 2015), <http://www.pewinternet.org/2015/06/26/americans-internet-access-2000-2015/>. There are also differences in internet usage by education, class, race and ethnicity, and community. *Id.*

¹² Comments of AT&T 9 n.35, MB Docket No. 16-41 (Mar. 30, 2016).

¹³ *Id.* (referring to *In re Petition for Declaratory Ruling that AT&T's Method of Delivering Public, Educational and Government Access Channels over Its U-verse System is Contrary to the Communications Act of 1934, as Amended, and Applicable Commission Rules*, MB Docket No. 09-13, File No. CSR-8126 (Jan. 30, 2009) ("ACM PEG Petition")).

U-verse “PEG product” adversely affects diverse and independent programming, which is the topic of this proceeding.

AT&T asserts that its U-verse “PEG product” makes PEG programming more widely available than do other cable operators because it provides viewers with access to all PEG programming in a particular Designated Market Area (“DMA”).¹⁴ We have already pointed out the obvious fallacies of this claim: “AT&T’s PEG product offers residents in each locality, *in return for degraded accessibility, functionality and quality with respect to their own local PEG programming*, equally degraded accessibility, functionality and quality with respect to all other PEG programming in the surrounding DMA.”¹⁵ This is the very antithesis of localism: in return for access to other PEG channels in the DMA outside of a subscriber’s own local community, which local communities did not even ask for, AT&T’s channel 99 PEG product makes it more difficult for a subscriber to find, view, and record the PEG programming of the subscriber’s own local community.

These barriers continue to stifle the diverse and independent programming provided by PEG channels. Midpeninsula Media Center, which serves Palo Alto, Atherton, East Palo Alto, and Menlo Park, California, details the problems that AT&T’s U-verse “PEG product” creates for PEG programming:

we have not received any indication from AT&T that they have any intention of carrying our PEG channels on their U-Verse system in High Definition. In addition, the AT&T U-Verse system has numerous deficiencies in the way it handles PEG channels by comparison to all other television channels. These include the provision of PEG channels by a segregated application accessed by navigating to channel 99 and then searching through a complicated menu structure to find the local PEG channels. Customers are

¹⁴ *Id.*

¹⁵ Reply Comments of ACM, et al., 38, *ACM PEG Petition*, MB Docket No. 09-13 (Apr. 1, 2009) (emphasis added).

unable to record programming from a PEG channel. This is not just because the Electronic Program Guide is not provided to schedule a future recording, but the DVR functionality of the set top box is completely disabled when viewing a PEG channel, so there is actually no provision for recording a PEG channel whatsoever, even by manually pressing a record button. It is also not possible to pause/rewind as there is with all other TV channels. AT&T have not indicated any intention of addressing any of these existing deficiencies.¹⁶

Public Media Network, which serves the Greater Kalamazoo area in Michigan, sums up AT&T's U-verse system for PEG programming:

*if the placement PEG content on Channel 99 with drop down menu's is so great, why not apply this delivery scheme over the entire platform, with say, all sports content on Channel 88, all news content on Channel 77, and all local affiliate content on Channel 66? **The answer is simple and obvious: the methodology is flawed and would not be tolerated by commercial programmers.***¹⁷

In short, despite AT&T's assertion, its U-verse "PEG product" continues to act as a barrier for viewer access to the diverse and independent programming provided by PEG channels.

¹⁶ Comments of the Alliance for Community Media and the Alliance for Communications Democracy, Appendix A, 40, MB Docket No. 16-41 (Mar. 30, 2016).

¹⁷ Comments of the Alliance for Community Media and the Alliance for Communications Democracy, Appendix A, 7, MB Docket No. 16-41 (Mar. 30, 2016) (emphasis in original).

CONCLUSION

The barriers facing PEG channels are not primarily technical in nature, nor do they require costly and extensive upgrades to address. PEG channels continue to be a unique source of diverse and independent programming, and the Commission has the authority to address the obstacles preventing greater access to PEG programming.

Respectfully submitted,

/s/ James N. Horwood _____

James N. Horwood
Tillman L. Lay
Jeffrey M. Bayne*
Spiegel & McDiarmid LLP
1875 Eye Street, NW
Suite 700
Washington, DC 20006
(202) 879-4000

*Counsel for the Alliance For
Community Media and Alliance
For Communications Democracy*

April 19, 2016

* Jeffrey M. Bayne is admitted only in Maryland; he is not currently admitted to practice in the District of Columbia and is supervised by principals of the firm.

APPENDIX A



Andover Community Access & Media
80 Shawsheen Road
Andover, MA 01810
P 978-475-9723
F 978-474-4168
www.andovertv.org

March 30th 2016

Ms. Marlene H. Dortch

Secretary

Federal Communications Commission

445 12th Street, SW

Washington, DC 20554

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

Dear Ms. Dortch:

I am writing on behalf of Andover Community Access & Media. We operate the PEG access channels in Andover Massachusetts providing community centric local television by and for Andover residents. We also maintain and operate the community television studio as well as seven municipal live broadcast sites bringing most every town board meeting into the living rooms and streamed onto the computers and mobile devices of local residents.

We appreciate the opportunity to provide information for the FCC's inquiry,

The FCC asks the following questions regarding Public, Educational and Government Access channels in the inquiry:

“We seek comment on MVPD’s practices with respect to making PEG programming information available to subscribers. To the extent that MVPDs do not make this information available, is this for technical reasons, and if so, can the technical barriers be surmounted? Is the Congressionally-imposed prohibition against editorial control of PEG channels relevant to this issue? What is the source of the Commission’s authority in this area, if any?”

We have been asked almost on a monthly basis why we do not have our playback info included in the “program guide” available to customers on every other channel that Comcast and Verizon provide to customers. We tell them the only thing that we can and that is that the providers do not offer us such an opportunity. We tell them that we’re told it is a matter of the equipment not being available but that really just boils down to the providers not wanting to invest the money in PEG access for such a use.

The FCC also asks a series of questions about the ability of independent channels to achieve distribution on MVPD systems and the negotiating practices of MVPDs.

We like to think of ourselves as one of the more advanced PEG outfits in the area. As such we would like to move all of our facilities to HD for live broadcast but have not invested the money yet. Not because we are not willing to do it, but because Comcast and Verizon are not willing to give us HD throughput to their head ends and real estate in their HD channel tier. We have 2/7 meeting rooms HD ready as well as our production studio whenever and if they would be willing to offer us channels in their HD tier. Until that time unfortunately we are overlooked by many viewers because our channels still reside down in the double digit SD tier.

We feel that we as an organization are and have been ready for some time to meet the technical HD standards of broadcast channels our cable providers already offer to their customers. We're willing to invest on our side but until Comcast and Verizon are ready to accept HD broadcast from us our hands are tied.

We appreciate the opportunity to enter this information into the record.

Sincerely,

Wess Murphy

Executive Director

Andover Community Access & Media



March 29, 2016

Alliance for Community Media

1825 K Street NW, Suite 400

Washington DC 20006

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

I am writing on behalf of Belmont Community Media Center, Inc., a non-profit community media center that is contractually obligated by the Town of Belmont, Mass. to produce programming, provide free technology training to local schools, videotape government meetings, and make available for public viewing on local channels and on the web for the residents, public schools and local government.

We appreciate the opportunity to provide information for the FCC's inquiry,

The FCC asks the following questions regarding Public, Educational and Government Access channels in the inquiry:

"We seek comment on MVPD's practices with respect to making PEG programming information available to subscribers. To the extent that MVPDs do not make this information available, is this for technical reasons, and if so, can the technical barriers be surmounted? Is the Congressionally-imposed prohibition against editorial control of PEG channels relevant to this issue? What is the source of the Commission's authority in this area, if any?"

On screen programming information is readily available on nearly every other channel that is carried on the cable TV system in Belmont for both Comcast & Verizon cable TV subscribers, including channels that program advertisements 24 hours per day, seven days a week.

Yet, there is not, and never has been, even basic program schedule information available on-screen or on the "electronic program guide" for our three local channels which carry hyper-local non-commercial, educational, public service programs that are most relevant to Belmont subscribers.

Our local P-E-G access cable TV channels are not treated on par with over 100 channels carried on either cable TV system. This discriminatory treatment of local channels by Comcast & Verizon is a source of constant complaints by residents, who often pay over \$200 per month for cable TV service and do not understand why the program information for the local channels is not available on the cable TV system.



Being very familiar with how cable TV companies operate, especially with regard to the sophisticated routing technology that is need to differentiate and direct channels and local ads between different municipalities, I feel certain that it is not difficult for cable TV providers / MVPD's to provide on-screen program/channel info and schedule information via the electronic program guide; which would greatly benefit paying cable TV subscribers and enhance the value of the local channels to local residents, but also be good for business of the MVPD's.

The FCC also asks a series of questions about the ability of independent channels to achieve distribution on MVPD systems and the negotiating practices of MVPDs.

Though all television broadcasting moved on to the “high-definition” (HD) standard in the last ten years, including our local programming in Belmont, none of our local channels are carried on the HD tier by either Verizon or Comcast, which is particularly discriminatory compared to all other channels. In order to overcome this disadvantage, and meet the expectations of local residents, we have taken on greater expense to provide a live & on-demand HD video stream on our website that is superior in signal quality than what Comcast & Version provides to its paying customers.

We appreciate the opportunity to enter this information into the record.

Sincerely.

Jeffrey Hansell
Executive Director

Belmont Media Center
9 Lexington Street
Belmont, MA 02478



April 4, 2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

Dear Ms. Dortch:

I am writing on behalf of Falmouth Community Television Corporation Inc.

Falmouth Community Television (FCTV) is a nonprofit community media center that fosters the production and distribution of local information. FCTV provides access to training, technology and content to encourage community dialogue, awareness and expression

We appreciate the opportunity to provide information for the FCC's inquiry,

The FCC asks the following questions regarding Public, Educational and Government Access channels in the inquiry:

"We seek comment on MVPD's practices with respect to making PEG programming information available to subscribers. To the extent that MVPDs do not make this information available, is this for technical reasons, and if so, can the technical barriers be surmounted? Is the Congressionally-imposed prohibition against editorial control of PEG channels relevant to this issue? What is the source of the Commission's authority in this area, if any?" The FCC also asks a series of questions about the ability of independent channels to achieve distribution on MVPD systems and the negotiating practices of MVPDs.

In terms of HD we have for several years been upgrading equipment including distribution systems to HD and are technically prepared to send our cable provider an HD signal. However while our programs are produced in HD, our cable operator carries our PEG channels only as an SD signal, seriously degrading our programming,

The issue of being left off of the electronic program guide is one that has severely impacted us here in Falmouth. We are asked regularly why we do not appear on the guide, unfortunate our cable provider has refused requests to do so. With a large senior populations, it is imperative that our channels are not only easily found, but that our programs, which range from municipal meeting coverage, town departmental programs including street closures, local and regional emergency preparedness, and other critical local, regional and state information are easily found for both viewing and to be recorded should our viewers desire to do so. With hundreds, if not thousands of channels to choose from, the programs we offer are hyper-local and target our community in a manner not otherwise available. Working with police, fire and municipal staff we produce hundreds of hours of local programming each year which needs to be found easily and quickly. In the most simplified terms, not having PEG channels on the guide is a barrier to public safety.

We appreciate the opportunity to enter this information into the record.

Sincerely,

A handwritten signature in black ink that reads "Debra A. Rogers".

Debra Rogers, CEO
Falmouth Community Television

April 19, 2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

Dear Ms. Dortch:

I am writing on behalf of Herkimer College Television, serving a very diverse community of loyal viewers in our area of New York State.

We appreciate the opportunity to provide information for the FCC's inquiry,

The FCC asks the following questions regarding Public, Educational and Government Access channels in the inquiry:

“We seek comment on MVPD's practices with respect to making PEG programming information available to subscribers. To the extent that MVPDs do not make this information available, is this for technical reasons, and if so, can the technical barriers be surmounted? Is the Congressionally-imposed prohibition against editorial control of PEG channels relevant to this issue? What is the source of the Commission's authority in this area, if any?”

This service in the past has been generic at best and does not allow our community to stay informed of pertinent local programming details.

The FCC also asks a series of questions about the ability of independent channels to achieve distribution on MVPD systems and the negotiating practices of MVPDs.

We have been refused HD distribution and the degrading economic processing of our quality signal by the distributor are both obviously profit driven.

We appreciate the opportunity to enter this information into the record.

Sincerely,
Jim Charzuk
Programming Manager HCTV
Herkimer College
100 Reservoir Road
Herkimer NY 13350
315.866.0300x8428
315.867.5709 Fax
hctv99@herkimer.edu

HCCAM TV

Hingham Community Access and Media

35 Pond Park Rd. Suite 8, Hingham, MA 02043

www.HinghamMedia.org

(781) 836-5094

March 30th, 2016

Hingham Community Access & Media
35 Pond Park Rd. Suite 8
Hingham, MA 02043

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

I am writing on behalf of **Hingham Community Access & Media, a small and relatively new community access & media provider for the town of Hingham, a bedroom community to Boston on the shores of Massachusetts.**

We appreciate the opportunity to provide information for the FCC's inquiry,

The FCC asks the following questions regarding Public, Educational and Government Access channels in the inquiry:

"We seek comment on MVPD's practices with respect to making PEG programming information available to subscribers. To the extent that MVPDs do not make this information available, is this for technical reasons, and if so, can the technical barriers be surmounted? Is the Congressionally-imposed prohibition against editorial control of PEG channels relevant to this issue? What is the source of the Commission's authority in this area, if any?"

We face many challenges as a result of not having our programming able to be seen in electronic programming guides, the most prominent of which is that people don't know where to find us. Those that do know where to find us rarely know what is on, and most of our viewers are used to being able to set a DVR to record a specific program as listed in the EPG; this however is not possible with no EPG information. We also struggle with people knowing what they are watching when they are watching it. We are forced to give up part of our screen to show a "bug" or logo that lets them know they have found their local channel. We must also schedule frequent "snipes" (on screen overlays) to appear over programming several times per hour to list the program description information. This is a major inconvenience for both our programming staff and our viewers.

The FCC also asks a series of questions about the ability of independent channels to achieve distribution on MVPD systems and the negotiating practices of MVPDs.

We have never been able to deliver an HD product over our cable systems (Comcast & Verizon FiOS). We do however deliver an HD signal right up to their equipment before it is stepped down to SD because this is the only platform they will give us. This results in our programming looking less desirable than any of

the programming adjacent to it, despite language in our cable contracts requiring them to do so. Comcast's license states:

"The Licensee shall monitor the PEG Access Channels for technical quality and shall ensure that it is maintained at standards commensurate with those which apply to the Cable System's commercial channels"

Verizon's license states:

"The Licensee shall monitor the PEG Channels for technical quality and shall ensure that they are maintained at standards the same or better than those which apply to the Cable System's commercial channels"

While we always strive for the very best in technical quality our restriction to standard definition and only mono sound puts us at an immediate disadvantage. We have had to rely heavily on the content we are able to post online as it is really the only platform which allows us to truly show our high technical standards. Pointing people, however, at all of these different channel platforms also presents many challenges for promoting a unified operation and brand.

We appreciate the opportunity to enter this information into the record.

Sincerely,



Eric Dresser

Executive Director,
Hingham Community Access & Media



**Department of Technology and Communication Services
Office of Cable Administration**

April 12, 2016

Alliance for Community Media
1825 K Street NW, Suite 400
Washington DC 20006

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

As the Cable Television Administrator for Howard County, MD, I am responsible for the administration of the access channels which are set aside for public, education and government use.

I appreciate the opportunity to provide information for the FCC's inquiry concerning access to onscreen guides and the ability to provide information about our Public, Education and Government programming.

Howard County, MD has Comcast and Verizon as franchised cable operators. We have a Community College (E), Government (G), Board of Education (E), and Public Access (P), channels.

- Verizon carries no PEG channel information on its onscreen program guide, and request of PEG channel inclusion have been denied.
- Comcast carries PEG channel information on its onscreen program guide:
 - For the Community College and Government channels only.
 - Comcast has prevented information for the Board of Education and Public Access channels.
 - When questioned as to why two channels have it and two don't, the County gets excuses that don't make sense.
 - Public Access, which is housed within a Comcast facility, used to be included on the onscreen guide, and Comcast removed the information.
 - Comcast claims they can't force ROVI Corporation, a Comcast Contractor, to put the information on; however that is in-correct. ROVI Corporation is used for the G and E channels with the information on the onscreen guide. When the Board of Education tried to use the same ROVI Corporation contact, the Community College used, the ROVI rep said they could provide the service, once Comcast approved.
 - Comcast is denying they have influence over ROVI Corporation's decision.
 - Comcast recently offered to correct the situation for our Board of Education and Public Access Channels; however they have not provided an effective date.

We appreciate the opportunity to enter this information into the record.

Sincerely,

Donna M. Richardson
Howard County Cable Administrator



PO Box 772, Woodbridge, New Jersey 07095

732-376-6030 ext. 23538

www.jagonline.org

info@jagonline.org

New Jersey Chapter of NATOA and New Jersey League of Municipalities Affiliate

April 4, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: MB Docket # 16-41 "Video Programming Diversity NOI"

Dear Ms. Dortch:

My name is David Garb, and I am the current President of the Jersey Access Group (JAG). JAG is a professional advisory organization that informs, educates, and recommends in the areas of technology, legislation, and regulation that shape and direct the use of multi-communication platforms for content creators and distributors on behalf of municipalities, educational institutions, and other public media facilities.

JAG represents PEG stations throughout New Jersey. We service over 200 municipalities which reaches about 2 million households. Our membership also includes channels from New York and Pennsylvania.

That being said, the access community has been dealing with a variety of issues from MVPD's for many years. We have always had disagreements as to channel line-up placement, and why we are not allowed to place our programming information on the Guide as everyone else can.

Our latest plight is on the HD distribution of our channels. The MVPD's refuse to give it to us, even though, the PEG channels are not supposed to be differentiated upon. However, we are!

We have tried numerous ways to obtain this distribution avenue, but have run into road blocks at every turn. When the MVPD's come into a refranchising meeting, they tell us immediately that HD is off the negotiating table. Recently, one of New Jersey's biggest MVPD's, told one of JAG's members that they couldn't give us HD unless all the access channels were ready to go HD at the same time. Since access channels are in varied stages of operations, this distributor has made it an impossible task for us to accomplish.

We don't believe that this stipulation for HD distribution was forced upon the broadcasters and major cable providers. So we are curious as to why it is being forced upon the access community of New Jersey. Maybe it is old wounds that haven't healed properly.

Back in 2011, JAG mobilized its membership to combat state legislation that was initiated by an MVPD that would have eliminated the requirements for telecommunication providers to carry or support community media. The New Jersey access world came out in force to stop the legislation.

PEG brings the community together for the benefit of the community. Whether it is OEM, government, school or localized information, PEG is "As Local as Local Gets"! We just want to be treated fairly by the MVPD's and nothing more.

Thank you.

David Garb

President, JAG-The Jersey Access Group

davegarb@paps.net

(732) 376-6030 Ext. 23538



PO Box 772, Woodbridge, New Jersey 07095

732-376-6030 ext. 23538

www.iagonline.org

info@iagonline.org

New Jersey Chapter of NATOA and New Jersey League of Municipalities Affiliate

April 15, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: MB Docket # 16-41 "Video Programming Diversity NOI"

Addendum

Dear Ms. Dortch:

My name is David Garb, and I am the current President of the Jersey Access Group (JAG). JAG is a professional advisory organization that informs, educates, and recommends in the areas of technology, legislation, and regulation that shape and direct the use of multi-communication platforms for content creators and distributors on behalf of municipalities, educational institutions, and other public media facilities.

I had wrote to you regarding MB Docket #16-41 a couple weeks back, but an issue had recently come up that I feel needs to be mentioned in the NOI.

One of our citizens came to us because they were not able to record their Township's Council Meeting on their DVR Cable Box. They are on the Cablevision System here in New Jersey, and no matter what they tried, it will not allow them record it.

The resident was complaining to Cablevision about this and could not get a straight answer as to why this happened. Cablevision first told them it's because it's analog and not digital. But the man refuted Cablevision's idea with the fact that their signal is digital to the cable box and so is the box and TV.

Then Cablevision tried to tell them you can't record the show because of copyright laws. Again that makes no sense because 1) It's government and open to the public and 2) what about every other show you can DVR on TV that really is copyrighted.

The resident related that Cablevision back peddled out of that again.

Since this was JAG's first time ever hearing of this, we asked our members if anyone else has run in to this issue. We challenged whoever had a DVR Cable Box in Cablevision areas to try and record their channel. We also asked other PEG channels to also set up a manual record.

JAG has found that it is true in Cablevision land. It seems that Cablevision on most (if not all of its DVR boxes) has moved to a new cloud-based recording system. Because of this, their system does not record PEG Stations, Pay-Per-View and Music Channels.

And it appears that this decision was intentional on Cablevision's part. The new cloud-based system will not even allow a manual record (or any recording) of the station.

Again, just a new twist in the way PEG Channels are being discriminated upon.

Thank you.

David Garb

President, JAG-The Jersey Access Group

davegarb@paps.net

(732) 376-6030 Ext. 23538



AKAKU: MAUI COMMUNITY MEDIA
333 DAIRY ROAD, KAHULUI, HI. 96732
www.akaku .org (808)871-5554

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Promoting the Availability of Diverse and) MB Docket No. 16-41
Independent Programming)

**COMMENTS OF MAUI COUNTY COMMUNITY TELEVISION
dba AKAKU MAUI COMMUNITY MEDIA**

**Jay April
President and CEO
Akaku Maui Community Media
333 Dairy Road
Suite 104
Kahului, HI 96732
(808) 871 5554**

April 18, 2016

Maui County Community Television hereby files these comments in response to the Notice of Inquiry ("NOI") in this proceeding.

Akaku Maui Community Media through its three public, education and government TV channels that reach 53,000 cable homes on three Hawaiian islands supports the mission of Maui County's schools, non-profit agencies, NGO's, government agencies and residents by providing media literacy education and training as well as facilities, equipment and technical support to empower their messages. Examples include: video to promote marketing of Maui space assets on Haleakala; media campaigns to prevent teenage drinking and driving; coverage of local elections; coverage of county council and live coverage of community events. Akaku provides production and programming advice to IMUA Family Services, Women Helping Women, Maui Economic Opportunity, Maui Veterans Council, University of Hawaii Maui College, Maui schools, Maui Arts and Cultural Center, Maui Economic Development Board, Native Hawaiian groups and many more. Akaku is there to cover arts and cultural events such as the Hana Taro Fest, Maui Charity Walk, Na Mele O Maui, Kaanapali Festival of the Arts, the Molokai Makahiki as well as giving air time to a variety of diverse viewpoints at no cost. Akaku provides free new media education to our youth through its nationally renowned new media mentoring program and pays kids stipends to produce quality mobile journalism using iDevices. Any resident can submit programs to air on any topic at no charge. The PEG center is like an electronic park with easy access to the latest technology and internet. It also promotes civic engagement by bringing government meetings and democracy into peoples' homes daily.

The Commission's NOI seeks comments on the issues facing independent programmers in order to assist the agency in helping to foster greater consumer choice and enhance diversity of opinion in the evolving video marketplace. Our testimony will focus on significant and ongoing barriers created by MVPD's, specifically big cable MSO's, to diminish and frustrate consumer access to diverse opinions and non-commercial local programming by restraining or diminishing the reach, availability and impact of Public, Educational and Government Access channels such as Akaku Maui Community Media, the only local television resource providing essential information to communities across three rural islands separated by water.

Although Justice Byron White's majority opinion in the landmark 1969 Red Lion Broadcasting v. FCC ruling pertained to broadcasting alone, its words could serve as a much needed blueprint for best practice regulation of the cable/broadband convergence in a free society.

"It is the right of the viewers and listeners not the right of the broadcasters which is paramount.....it is the purpose of the First Amendment to preserve the uninhibited marketplace of ideas in which truth will ultimately prevail, rather than countenance monopolization of that market, whether it be by the government itself.....or a private licensee.....it is the right of the public to receive suitable access to social, political, esthetic, moral and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by Congress or the FCC.

Shouldn't there be someplace where everyone can speak out and be heard? A place, that is fully local where diversity of viewpoint and opinion are the only thing that matters,

where your voice counts? A place where you can learn new ways to communicate, where you don't have to log in, where you don't need any money? A place that does not try to sell you soap? Those places exist. They are called PEG Access centers and they are currently being harmed by routine cable industry practices such as:

1. PEG CHANNELS EXCLUDED FROM ELECTRONIC PROGRAMMING GUIDES, HD AND DVR RECORDING CAPABILITIES MAKE IT DIFFICULT FOR SUBSCRIBERS TO FIND AND RECORD LOCAL PROGRAMS.

Most PEG Access stations are excluded from cable MSO electronic programming guides due to procedural barriers set up by cable operators or third party EPG vendors. As a result, viewers are frustrated in trying to find out channel offerings and since most DVR technology is linked to meta data on the EPG, viewers are unable to record PEG access programs even if they are able to find the program offerings. In addition PEG channels are not available on HD tiers and commercial channels are. As a result PEG channels are not in the traffic pattern when consumers use remote control devices to surf through available offerings.

2. BIG CABLE MSO's ROUTINELY DISCRIMINATE AGAINST PEG CHANNELS REGARDING SIGNAL QUALITY, CHANNEL PLACEMENT AND PROGRAM TIERS

In most markets including Hawaii, cable companies routinely discriminate against PEG by: outright refusing to transmit PEG channels in industry standard HD; not repeating them on digital and HD tiers as they do with local broadcast; arbitrarily moving PEG channels to inaccessible tiers; changing channel numbers and moving them to undesirable locations; appropriating valuable analog spectrum from PEG without compensation; requiring subscribers to purchase or obtain special set top equipment to view; and in many cases, delivering sub-standard signal quality to subscribers.

The solution is simple. The FCC needs to require MVPD's to provide signal quality and accessibility equivalent to local broadcast channels in analog, digital and HD, on every tier and on-demand on every device. MVPD's must agree that when channels are transitioned to digital or IPTV that PEG channels are not discriminated against in the transition and that channel designations are agreed by mutual agreement with the PEG provider prior to transition. MVPD's should be required to meet minimum technical requirements regarding signal quality, accessibility and placement of channels on every platform and every device.

3. MVPD's DISCRIMINATE AGAINST PEG BY REQUIRING SET TOP DEVICES TO VIEW AND BY PROVIDING THEM ONLY BY REQUEST

In the confusing analog to digital transition many cable operators require subscribers to rent or obtain set top boxes "by request" in order to view required "basic services"

including PEG access channels. Surveys have indicated that more than 70%, of subscribers may not know how to do this or despite notification may not be aware of how to "request" a device or travel to a cable company office to obtain one. Some fear paying additional fees and others simply do not know how to connect the device requiring technical assistance to do so. The proof is in the pudding. In Maui, when Oceanic Time Warner migrated two PEG Educational channels from the analog tier to digital in 2012, more than 40% of viewers, those who did not make a special pro active effort to obtain set top boxes, lost the ability to view the channels

4. "BASIC SERVICE" RATE DE-REGULATION HARMS PEG IN HAWAII

Unilateral action on the part of the FCC to presume effective competition and shift the burden on LFA's away from cable operators to prove it harms PEG in Hawaii. The conclusions drawn by the FCC in Report and Order in MB Docket No. 15-53. that basic service rates generally do not increase as a result of the order or that there is not *"a single instance of in which cable operators have even attempted to move broadcast stations or PEG channels off the basic tier"* are both inconsistent with what has happened in Hawaii Nei.

As of April 1, 2016, in Hawaii. Basic Service rates were increased by more than \$20.00 per annum. In 2012, Oceanic Time Warner Cable unilaterally moved PEG Educational Access channels off the basic tier on to more expensive digital tiers requiring a set top box to view. This action made making lifeline educational services inaccessible to up to 40% of subscribers who do not wish to rent special equipment. These actions increase the coffers of an industry that already enjoys a 95% profit margin at the expense of consumers by adding financial burden to low income subscribers. More expensive basic service adversely effects the stability of PEG by making the lifeline services and unique community communications services we offer less affordable with pricing subject to the whim of the cable operator with little or no effective oversight.

CONCLUSION

The elephant in the room is that ***cable companies are rapidly morphing into powerful telecommunications utilities.*** In order for the promise of non-commercial, diverse and uniquely local community communications to survive in America as represented by more than forty years of PEG Access experience, the FCC will need to carefully consider how changes in technology will affect the ability of MVPD's to evade or erode payment of rent for use of Public Rights of Way.

The writing is on the wall as we are now seeing a concerted effort by cable companies (even though they are using the exact same telephone poles, wires and conduits,) to try and get out of paying for use of Public Rights of Way. They do this by declaring that they are unregulated Internet Protocol (IP) and IPTV delivery systems and no longer video delivery (cable) systems due to changes in the way they deliver signals and services. The

simple fact remains that they will be using the same PROW regardless.

Will the FCC act to preserve and protect the funding for PEG access channels and the integrity of community broadband and public, non commercial media in a rapidly changing technological landscape. If the FCC will not, who will?

March 30th, 2016

Alliance for Community Media

1825 K Street NW, Suite 400

Washington DC 20006

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

I am writing on behalf of Duluth Public Access Community Television, PACT. PACT is a 501(c) non-profit, non-commercial, public access and community media center that offers, encourages and enables individuals and other non-profit organizations to produce local programs.

We appreciate the opportunity to provide information for the FCC's inquiry.

The FCC asks the following questions regarding Public, Educational and Government Access channels in the inquiry:

“We seek comment on MVPD's practices with respect to making PEG programming information available to subscribers. To the extent that MVPDs do not make this information available, is this for technical reasons, and if so, can the technical barriers be surmounted? Is the Congressionally-imposed prohibition against editorial control of PEG channels relevant to this issue? What is the source of the Commission's authority in this area, if any?”

About two years ago, our local cable provider, Charter Spectrum, moved our channels up into the digital 180s - PACT has four (4) channels - without our consent and has yet to provide 'moving' expenses, i.e. advertising of where now to find our PACT channels and re-branding of our logo, etc.

We appreciate the opportunity to enter this information into the record.

Sincerely,

Liz Minette
Administrative Assistant
Duluth Public Access
Community Television, Inc.
Room 328 - Duluth City Hall
411 West First Street
Duluth, MN 55802

Town of Penfield Access Television
3100 Atlantic Avenue, Penfield, New York 14526
www.penfieldTV.org | pctx@penfield.org | (585) 340-8661

March 30, 2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

I am writing on behalf of the Town of Penfield Access TV. Penfield TV provides Public, Education and Government access television and electronic communication services to individuals, community groups, and local county and state government agencies. Penfield TV's primary goal is to provide opportunity for live community participation through TV and internet to those individuals who are unable to attend a government meetings, community events, or educational presentation.

We appreciate the opportunity to provide information for the FCC's inquiry,

The FCC asks the following questions regarding Public, Educational and Government Access channels in the inquiry:

“We seek comment on MVPD's practices with respect to making PEG programming information available to subscribers. To the extent that MVPDs do not make this information available, is this for technical reasons, and if so, can the technical barriers be surmounted? Is the Congressionally-imposed prohibition against editorial control of PEG channels relevant to this issue? What is the source of the Commission's authority in this area, if any?”

The cable provider serving our community does not provided an active Information Program Guide (IPG) for PEG Access content. Our facility has the technology and ability to provide this information to the cable operator in several electronic formats, but has been denied. The lack of an affective IPG places a hardship to local governments, educators, and viewers. The inability to know when officials and community representatives will be addressing there constituency does not allow for an open and transparent government.

The FCC also asks a series of questions about the ability of independent channels to achieve distribution on MVPD systems and the negotiating practices of MVPDs.

Penfield TV has been producing programming in HD, in accordance's to the Society of Broadcast Engineers (SBE) standers, since 2013. Our organization works closely with local and national SBE chapter members to ensure proper standards are met. Our signals are ready for distribution in full HD.

The MVPD serving our community will not allow for HD broadcast to PEG operations in HD, calming bandwidth limitations. Yet paid proگرامing lineups continue to grow. Negotiations between the cable provider and the local franchise authority was discontinued over 11 years ago and have not resumed. The franchise for our community is more than 13 years pass due.

We appreciate the opportunity to enter this information into the record.

Sincerely,

David Renner

Town of Penfield Access TV
Cable TV Coordinator

March 30, 2016

Alliance for Community Media

1825 K Street NW, Suite 400

Washington DC 20006

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

I am writing on behalf of The Public Access Television Corporation. The Public Access Television Corporation is a 501(c)3 not-for-profit organization serving the incorporated villages of Great Neck/North Shore: Flower Hill, Great Neck, Great Neck Estates, Great Neck Plaza, Kensington, Kings Point, Lake Success, Munsey Park, North Hills, Plandome, Plandome Manor, Plandome Heights, Russell Gardens, Saddle Rock, Thomaston.

We appreciate the opportunity to provide information for the FCC's inquiry,

The FCC asks the following questions regarding Public, Educational and Government Access channels in the inquiry:

“We seek comment on MVPD's practices with respect to making PEG programming information available to subscribers. To the extent that MVPDs do not make this information available, is this for technical reasons, and if so, can the technical barriers be surmounted? Is the Congressionally-imposed prohibition against editorial control of PEG channels relevant to this issue? What is the source of the Commission's authority in this area, if any?”

The FCC also asks a series of questions about the ability of independent channels to achieve distribution on MVPD systems and the negotiating practices of MVPDs.

HD (High Definition) distribution hasn't been forthcoming for our Channels.

Like any other mayor networks, we should have the same sound,video, distribution and transmission quality. The cable industry has prevented equal access to our viewers in terms of channel placement, signal quality, and the inability to be recorded on a DVR in our area.

We appreciate the opportunity to enter this information into the record.

Sincerely,

Erica Bradley

Executive Director

The Public Access Television Corporation

Great Neck/ North Shore



Received by mailroom

APR 01 2016

FCC Mail Room

QUEENS PUBLIC TELEVISION

March 31, 2016

DOCKET FILE COPY ORIGINAL

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

Dear Ms. Dortch:

Enclosed is a corrected copy of the later that I uploaded to the FCC site on Wednesday March 30, 2016.

Although I am submitting this corrected copy one day after the deadline, I respectfully request that my comments be included in the record regarding the notice of inquiry regarding Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

Once again I thank you for the opportunity to enter this information into the record.

Sincerely,

Clifford T. Jacobs
Programming & Access Services Manager
Queens Public Television

No. of Copies rec'd 0
List ABCDE

APR 01 2016

FCC Mail Room



QUEENS PUBLIC TELEVISION

March 30, 2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

Dear Ms. Dortch:

I am writing on behalf of Queens Public Television (QPTV). QPTV manages four channels in the county of Queens, New York. There are half a million cable subscribers in our community and over three hundred individuals and organizations that use our facilities to bring their message to the residents of this county.

QPTV requests that the FCC advocate and support our efforts to encourage cable providers to match the quality of our original programming by cablecasting our entire channel output in high definition. We also request that the FCC require cable providers to enhance Public, Educational and Government (PEG) Access programming in the coming years. Community Television is a vital resource not only in Queens County but in communities all across the country. We are confident that the FCC will work towards keeping community television as an important and vital asset in our community.

We appreciate the opportunity to enter this information into the record.

Sincerely,

A handwritten signature in cursive script that reads "Clifford T. Jacobs".

Clifford T. Jacobs
Programming & Access Services Manager
Queens Public Television



April 19, 2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

Dear Ms. Dortch:

I am writing on behalf of Thurston Community Television (TCTV). TCTV manages the public, educational, and governmental cable access channels and production facilities serving greater Thurston County, Washington. We serve a population of 260,000 including the cities of Lacey, Tumwater, Yelm, and the capital city of Olympia. We are the ONLY local television service in the Washington capital city. All of the broadcast affiliates are located 60 miles north in Seattle.

We appreciate the opportunity to provide information for the FCC's inquiry,

The FCC asks the following questions regarding Public, Educational and Government Access channels in the inquiry:

"We seek comment on MVPD's practices with respect to making PEG programming information available to subscribers. To the extent that MVPDs do not make this information available, is this for technical reasons, and if so, can the technical barriers be surmounted? Is the Congressionally-imposed prohibition against editorial control of PEG channels relevant to this issue? What is the source of the Commission's authority in this area, if any?"

Without specific programming data visible on the programming guide, our viewers have no way of knowing when programs will air. They cannot set their DVR to record specific programs. We are all but invisible to the viewing public. We have tried, unsuccessfully, for several years to get our programming schedule included on the Programming Guide. Comcast has refused our request, stating that our current franchise only requires them to identify our channel with our call letters and a generic programming description. We interpret the franchise differently, but, to move the process forward we have offered to pay

for the service. Comcast still refuses. It is a frustrating situation that severely limits our ability to promote our programming to all cable viewers.

The FCC also asks a series of questions about the ability of independent channels to achieve distribution on MVPD systems and the negotiating practices of MVPDs.

Our current franchise does not require HD channels or provide a process for getting HD distribution. We anticipate negotiating for HD capacity in the franchise renewal in 2018.

We are currently producing all media in HD standards and will be upgrading our playback system to HD capability before the end of the franchise term. We will be ready for HD channels as soon as they are available to us.

We appreciate the opportunity to enter this information into the record.

Sincerely,

A handwritten signature in blue ink, appearing to read "Deborah S. Vinsel". The signature is fluid and cursive, with the first name being the most prominent.

Deborah S. Vinsel, CEO
Thurston Community Television



3/29/2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Promoting the Availability of Diverse and Independent Sources of Video (DN 16-41)

Dear Ms. Dortch:

I am writing on behalf of Willamette Falls Media Center. WFMC is supported by cable subscribers of Damascus, Milwaukie, Oregon City, Wilsonville and the unincorporated regions of Clackamas County. As a public access facility and community media center WFMC provides cities with channel management services, is a production training facility, a host agency for internships and senior job skill building, and media support, for local events. WFMC manages five local cable channels. These PEG Channels are the community's Public, Education and Government Channels. WFMC also provides programming for a sixth channel known as the Cable Access Network (CAN) Channel. This channel cablecasts out to Washington, Multnomah and Clackamas County. This channel is reserved for local producers. We appreciate the opportunity to provide information for the FCC's inquiry, The FCC asks the following questions regarding Public, Educational and Government Access channels in the inquiry:

“We seek comment on MVPD's practices with respect to making PEG programming information available to subscribers. To the extent that MVPDs do not make this information available, is this for technical reasons, and if so, can the technical barriers be surmounted? Is the Congressionally-imposed prohibition against editorial control of PEG channels relevant to this issue? What is the source of the Commission's authority in this area, if any?”

WFMC does not have IPG.

The FCC also asks a series of questions about the ability of independent channels to achieve distribution on MVPD systems and the negotiating practices of MVPDs.

Unable to achieve HD distribution as our City customers do not have HD and are in negotiations with cable company.

We appreciate the opportunity to enter this information into the record.

Sincerely,

Melody Ashford,
Executive Director
Willamette Falls Media Center