



Received & Inspected

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FCC Mail Room

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

February 17, 2009

Re: Petitions for Declaratory Ruling Regarding Public, Educational and Governmental Access Channels, MB Docket No. 09-13, CSR-8126 (ACM *et al.*), CRS-8127 (City of Lansing, MI), and CSR-8128 (City of Dearborn, MI *et al.*)

Dear Ms. Dortch:

The Town of Smyrna strongly urges the Commission to grant all three of the above-captioned petitions concerning public, educational and governmental ("PEG") access channels. The common principle in all three petitions is an essential one in order to preserve the vital purpose of PEG channels: to enable local residents to have unimpeded and non-discriminatory access to programming concerning their local government, the educational opportunities afforded by local educational institutions, local civic, cultural and sports events, and the views and voices of their fellow local residents

The principle that should guide the Commission with respect to all three petitions is straightforward and critical: Cable operators and all other landline multichannel video programming distributors ("MVPDs") may not discriminate against PEG channels vis-à-vis local broadcast and other commercial video channels on their systems in terms of accessibility, price, viewability, functionality or signal quality. Anything less than that would give cable operators and other MVPDs the power to frustrate viewers' ability to find and watch PEG channels, defeating the entire purpose of PEG channels under the federal Cable Act.

1. PEG Programming in the Town of Smyrna

The Town of Smyrna currently provides one PEG channel to its residents. Our Government Access Channel (Smyrna's Channel 3) serves our community in several ways. Five of our public meetings are broadcast live. These meetings include: Town Council Meeting; Town Council Workshop; Planning Commission; Board of Zoning Appeals; and Storm Water Advisory Committee. The airing of these meetings allows our citizens to stay updated on the ordinances and happenings of the Town of Smyrna. We produce additional local programming that provides up-to-date information on our Town. These programs include documentaries, previews and follow-up programming on community events, as well as public safety information from our Police and Fire Departments. During a recent Amber alert, only viewers of Smyrna's Channel 3 were able to see a live police press conference regarding that investigation.

Smyrna's Channel 3 also airs programs produced by external sources. These include programs produced by the U.S. Postal Inspectors Service, the U.S. Armed Forces, NASA and the U.S. Department of Education (which is closed-captioned).

Thus, PEG programming in the Town of Smyrna provides local residents with informational, public safety, educational, cultural and local opinion programming of uniquely local interest that they cannot obtain elsewhere.

2. The Commission Should Grant the Petitions Concerning AT&T's PEG Product (CSR-8126 & CSR-8127)

Both petitions concerning AT&T's manner of delivering PEG leave no doubt about AT&T's glaring deficiencies. AT&T's U-verse system fails to pass-through closed captioning in PEG programming, a clear violation of FCC rules. More generally, AT&T's PEG product systematically discriminates against all PEG programming compared to local broadcast and all other popular commercial programming channels on its system. In virtually every conceivable way that matters to a viewer, PEG channels are markedly inferior to all other channels on AT&T's U-verse system: Ease of finding in the channel lineup, ease of access, the time it takes to reach the channel, channel surfing, ability to record using DVR, closed captioning capability, SAP capability, and a host of other channel functionalities and qualities that all viewers have come to expect of PEG and other video channels.

AT&T is the local telephone company in the Town of Smyrna. It has obtained a state franchise, and is just beginning to provide U-verse service in the Town of Smyrna.

Accordingly, to preserve PEG as envisioned in the Cable Act, the Commission should grant the petitions in CSR-8126 and CSR-8127.

3. The Dearborn Petition and Comcast's PEG Digital Channel-Slamming (CSR-8128)

The Town of Smyrna also supports Dearborn's petition in CSR-8128. Dearborn is clearly correct that discriminatory treatment of PEG violates the Cable Act and that digitalizing PEG channels and shunting them off to the channel 900-range effectively, and impermissibly, removes PEG channels from the basic tier.

Comcast is a franchised cable operator in the Town of Smyrna. While Comcast has not yet implemented the channel 900 PEG digitalization practice in our community, it almost certainly will do so eventually unless the Commission grants Dearborn's petition.

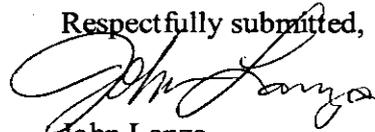
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Conclusion.

Our PEG channels are a critical and irreplaceable resource for our community. They are the key medium of communication for our local government to communicate with residents, for local educational institutions to communicate with our residents, and for residents to communicate among themselves and to watch and participate in a dialogue about our community. In light of the decreasing amount of truly local programming available on broadcast and other commercial channels, PEG is the only full-time, genuinely local source of television programming available to our residents. At issue in these three petitions is whether this vital asset in our community is to survive. We therefore strongly urge the Commission to grant all three petitions.

Respectfully submitted,



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