

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

In the Matter of)	
)	
Annual Assessment of the Status of)	MB Docket No. 12-203
Competition in the Market for the)	
Delivery of Video Programming)	

**REPLY COMMENTS OF
THE TELECOMMUNICATIONS BOARD OF NORTHERN KENTUCKY**

The Telecommunications Board of Northern Kentucky submits these reply comments in response to the above-captioned Notice of Inquiry (“NOI”), released July 20, 2012, seeking “data, information, and comment on the state of competition in the delivery of video programming” and the opening comments filed in this proceeding.

The Telecommunications Board of Northern Kentucky (TBNK) is the cable television regulatory authority created by 16 Local Governmental entities (1 county and 15 cities) in **Kenton County, Kentucky**. The TBNK is responsible for franchise negotiation, administration and regulation of all matters respecting cable television franchising, as well as the provision, supervision and operation of public and educational and government (PEG) access television programming and related services, including PEG facilities, training and channels for and on behalf of the Local Governments.

Our franchise area has two (2) MVPD providers: Time Warner Cable (which recently bought the system from Insight Communications,) and Cincinnati Bell Extended Territories,

which entered the market as a new competing provider in 2009. Time Warner Cable provides 7 channels for PEG programming in our communities: 1 Full-time Government Access Channel, which airs over 20 meetings per month – most live and with multiple replays; 1 Full-time Educational Access Channel, which airs shows from five different high schools and various grade schools; a second Full-time Educational Access Channel dedicated to Northern Kentucky University, which programs the channel; 3 Public Access Channels, one of which is used heavily by numerous local churches, the other two which air a wide variety of local community programming, and another channel that is split between educational access and additional governmental access programming in the evening (for nights with multiple live meeting coverage and other government informational programming.) Cincinnati Bell Extended Territories also provides 7 identical channels for PEG programming in our communities.

When the first Cable franchise was granted in our area in 1980, the cable company agreed to provide PEG access channels, training and facilities, as well as a Local Origination channel.

The added issue in our area, is that our communities are suburbs of Cincinnati, Ohio, but are located across the state border in Northern Kentucky. As such, the Cincinnati media pays little attention to our Northern Kentucky communities, and provides little coverage. Since this first franchise in 1980, our community leaders have consistently made it a priority to provide Northern Kentucky coverage and programs on the cable system.

While the Local Origination channel had its ups and downs during the first franchise, and was not provided enough resources, it did provide a few good local shows, until they shut down the LO channel in 2011.

On the other hand, the PEG channels were poorly equipped and poorly funded by the cable operator almost from the start, as the cable company continued to pull resources and allow PEG to deteriorate. As the cable company continually cut back resources for the PEG channels, it eventually got to the point that there was very little training or services offered to the public, the equipment was mostly broken, there was no studio space and shows would not air reliably.

Despite the cable board's efforts to cause the cable operator to live up to its franchise commitments and improve the situation, the quality of the access facilities and services was so poor by the end of the first franchise that the board negotiated to take over operation of all PEG efforts in the second franchise in 1997. Since taking over operation of PEG access, the Telecommunications Board of Northern Kentucky (TBNK) has worked hard to develop and offer excellent PEG access services and programming to our community.

Today the TBNK offers truly Public Service Television to our community through a grass roots television studio. By partnering with many volunteers and community organizations we provide truly local television programming, including local government meeting coverage, Northern Kentucky (NKY) election coverage, public affairs shows and documentaries, community events, NKY high school and college sports and academic competitions, chamber of commerce information and events, music, arts, and numerous faith based programs.

We provide hands-on training and equipment and studio use and free air-time for those who wish to make their own programs. Our staff also provides gavel to gavel coverage of over 20 city and county meetings every month for most of our 16 communities. We also produce about 20 local high school and college football games each season, as well as 30 plus basketball games. Programs are televised on our local PEG Channels and web streamed on-demand.

We had been making good progress; however in the last five years, federal and state legislation has slashed our PEG Support funding and restricted its use to capital needs only. The state of Kentucky also prohibited franchise fees and replaced them with a telecommunications tax, while promising a hold harmless amount to be paid back to our local communities to replace the franchise fees. This hold harmless amount however falls short by about 17 percent – further lessening our funding.

These problems have virtually stopped any growth in new services and programs, and caused cutbacks in the amount of existing services and shows produced for our communities. We have been forced to steadily reduce our staff from nine full-time employees to three full-time employees.

In addition, the cable operator has recently shut down the local origination channel, leaving the TBNK PEG channels as the only local programming for Northern Kentucky. The TBNK has been working hard to fill that void.

Our PEG Channels offer the kind of programming that may not be commercially profitable, but which is still important to our local communities. PEG channels provide a needed local voice for area community organizations, schools, churches, citizens, and government agencies – and in our case virtually the only meaningful media coverage for Northern Kentucky.

This is TV For Our Community; By Our Community. It's Public Service TV.

Unfortunately, this kind of local public service programming has faced severe cut backs in many communities across the country. From its inception, a lot of the promise of cable TV was that it could provide a much better variety of programs and alternatives to the big national

networks - including local programming that would serve local communities. A big cause of the recent funding for local PEG television is due to heavily financed lobbying by the cable industry, which has been pleading how poor they are, when they continue to provide very healthy profits margins for their stock holders. It is not too much to expect that the for profit entities who use the communities' property to string their cables provide a few channels and production support for local community programs in exchange for the ROW use that allows them to transmit hundreds of channels and operate very lucrative businesses. You wouldn't expect a city to provide space for a restaurant to operate in city hall without paying rent. That is simply not good stewardship of public resources.

So why has proper payment for use of the ROW space been so heavily attacked? Why are huge media conglomerates, which continue to consolidate cable companies across the country, and continue to raise cable rates every year, seen as some sort of struggling mom and pop shop that needs more and more concessions at every turn? We need our policy makers to maintain a priority for the local communities' interests, and not throw our local PEG programming under the bus driven by big business.

The funding problems created by changes to state and federal regulations has severely impacted our ability to continue to develop new ways to promote and offer our services and training on our website; and new distribution avenues for these services and our programming through the internet - such as new uses for web streaming and social networking. Due to the heavy cuts in funding, we just don't have the staffing and resources to continue to work on ways to leverage new media technologies. We have had to cut back on services to our schools with whom we have been partnering for educational programming (including video training, technical consultation and troubleshooting). We have had to entirely discontinue several regularly

produced community informational and talk shows and reduce the number of sports and community events we can cover, as well as cut back on the amount of classes and services to public access producers.

We have worked hard to find every way to be as cost efficient as possible (cutting staff, increasing volunteers and interns and looking for more partnerships and more ways to combine, streamline and automate work flows, etc.) while trying to maintain as much programming and services as we can; but we need the PEG funding model fixed. States should not be allowed to pre-empt the federally permissible PEG Support Fees and Franchise Fees, and we need the federal regulations changed to allow PEG fees to be used for any legitimate PEG costs – both operating AND capital - including staffing. It does no good to be able to buy cameras but not be able to hire someone to run them.

Respectfully Submitted

A handwritten signature in blue ink that reads "Tim Broering". The signature is written in a cursive style with a long, sweeping underline.

Tim Broering
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