



**ALLIANCE
FOR
COMMUNITY
MEDIA**

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Congressman, Representative
Address
Washington, DC Zip

Dear [Senator, Representative],

The members of the *Alliance for Community Media* request that you announce your support for media localism that builds diverse communities across our nation.

We ask that you strongly oppose House 3146, Senate 1349 as well as the bill proposed by Senator Ensign last week—Senate 1504.

Each of these bills is a **National Video Disenfranchisement Act**—undoing years of progress in connecting the people of our communities to important local institutions and services. These bills are anti-competitive taking resources away from our local communities and giving them to giant and remote corporations without fair compensation. These bills are technically flawed and unworkable in the real world. We request that the Congress take the time to develop a reasoned framework that will serve the public interest and function effectively for years to come.

The cable bills before Congress are wrong for three reasons:

The Bills Take Resources From Our Communities:

- **Communications Facilities** While the bills continue some aspects of franchise fees to municipalities, they eliminate essential communications facilities our local governments have negotiated as part of franchise agreements. Gone will be the distance learning this affords our schools. Gone will be the institutional networks used for public safety and homeland security. Gone will be the resources which have provided for cheaper, more efficient delivery of health and social services.
- **Franchise Fee Off-Sets** Under the Ensign bill franchise fees—fees paid in recognition of the value of public rights-of-way—are eliminated. Instead, cities and towns are reduced to recovering the cost of maintaining rights-of-way for use by these corporations. Even collection of real costs is limited to 5% of gross revenue or less. This means that none of what used to be called the *franchise fee* will be available to support Public Access, Educational Access or Government Access programming. Funding will be eliminated for public networks including public safety communications.

These Bills Are Technically Deficient:

- **Jurisdiction—PEG** The local cable franchise is the negotiation and enforcement tool for communities. Under the proposed legislation, there is no entity to determine **PEG** channel capacity, placement, interconnection or support. The City has no relationship to the provider. Furthermore, while the bills anticipate creation of **PEG** capacity in towns where there is none, they do not identify a negotiating partner to establish the request—and if they did, the partner would have no authority from which to negotiate the community interest.
- **Jurisdiction—Right-Of-Way** Local communities are reduced to having little legal enforcement authority over a national corporation operating in their public roads. Local differences of opinion in the placement of poles, equipment of the digging up of roads may have to be settled at the state level, by the FCC or in the courts instead of at face-to-face meetings.
- **Jurisdiction—Ensign** This bill in particular designates that the cable provider can dig up the public roads without notifying the city, much less obtaining permission, in the case of an undefined “emergency”— an unacceptable derogation of the city’s public safety obligations.
- **One Size Does Not Fit All**— Our communities are beautifully diverse. One national regimen cannot possibly cover the technical, communications, cultural and construction needs of all cities, large and small.

The Borough of Manhattan, New York alone has more than 550,000 cable subscribers, more than 5,000 producers of Public Access, one of the most ethnically diverse communities in the world, very broad, permissive community standards, extremely dense geography, and the most intense media coverage in the country.

The Town of Rhinebeck has under 10,000 total population—a population *358 times* geographically less dense than Manhattan, has more sensitive community standards, has less commercial coverage of local issues, less demand on public channel capacity, greater likelihood of satellite penetration and different opportunities for economic development.

A *one-size-fits-all* approach to franchise negotiations does not adequately allow either of these two New York Cities to determine what use of its publicly owned rights-of-way best serves the local public need.

Further, a national franchise authority moves us rapidly toward the creation of a single, homogenized national culture—*one with little difference between Hollywood CA and Hollywood, FL.*

- **Channel Capacity** Nowhere is the term “*channel*” defined. This deficiency will lead to confusion and litigation between all parties. This lack of clarity shows the haste in which these bills were patched together.

Currently, a channel occupies 6MHz bandwidth. Five channels would occupy 30MHz bandwidth. As systems digitize, more “channels” occupy less bandwidth. A digital signal typically occupies 1/10th as much space now and may occupy 1/100th as much in the near future. The commitment to public interest bandwidth in *payment for rights-of-way would, therefore, shrink as the system capacity grows!*

More importantly, the number of functions associated with a channel are increasing as the size of the signal decreases. A “channel” such as Disney, for instance, may include programming as we currently understand it, but may also include interactive services, sales, side-bar information sources, audience measurement—it is impossible in 2005 to imagine what may constitute a channel in 2020.

These Bills Are Anti-Competitive:

- All three bills absolutely favor the existing cable and telecommunications providers over all potential competitors at a time when the Supreme Court decision in “Brand X” signals that neither has any “open platform” obligations for their information services. Every community will be controlled by one or two dominant players who have legal authority to act as gatekeepers for most voice, data and video to the home. This is non-competitive and anti-democratic.
- The Ensign bill awards “veto” control to any corporation over municipal development of communications facilities—without any corporate commitment to create that structure! This absolutely eliminates the need to compete. The community has no legal ability to ask for content or services and loses the ability to provide them on its own—a fundamental means of encouraging the commercial provider to do so.

How The Bills Can Be Fixed:

The simplest solution for telecom entry into cable is to mirror existing cable franchises in each locality. It eliminates the burden of negotiating new agreements from scratch. This is fair to telecom, fair to existing cable providers, fair to **PEG** operations and, most importantly, fair to your constituents who own and maintain the land upon which these enormous profits are to be made. (*For a successful example of this, see the agreements between Time Warner, RCN and the Borough of Manhattan, NY.*)

- **Solution** Financial support for Public, Educational and Government (PEG) Access must be maintained—including both operating and capital support as outlined in the existing federal laws.
- **Solution** Municipal use of channels should maintain system proportionality with 2004 levels or 30 MHz, whichever is greater.
- **Solution** Non-monetary payments of the franchise agreements, including public networks and other community media infrastructure must be protected.

- **Solution** Franchise fees, if limited to 5%, must stand alone. They should not be offset by other values, nor should they be tied artificially to unrelated costs of the municipality. These fees are in recognition that great profits are being made on land owned by the people of the town—in addition to any costs of maintenance.

Competition is good, but it must be smart. These bills lack adequate rudder. A balance must be struck between community need and corporate desire. This balance cannot be reached if every means for the community to speak as a group is eliminated.

The *Alliance for Community Media* and the hundreds of thousands of organizations we support and represent throughout this great country implore Congress to maintain the wise and proven policy of Local Franchising Authorities for cable broadband and other broadband service. It is a system which has for more than thirty years encouraged diversity in programming and structure based on the needs of our local communities. It is a system that has encouraged vibrant competition and innovation, while allowing local government to serve constituents more efficiently.

As you consider proposed legislation, please protect the existing policy of *community reinvestment* through Public, Educational and Government (PEG) Access, including those funds and bandwidth being used for public purposes, by:

- Allowing the local community which *owns* the public right-of-way to franchise and determine the best use of the community's property. This principle must be protected by Federal law.
- Dedicating 10% of public airwaves and capacity on communication facilities that occupy public rights-of-way for PEG use for local programs, community-based education, free speech, political processes and diverse points of view.
- Mandating funding of 5% of gross revenues from all infrastructure or service providers and spectrum licensees to support PEG equipment, facilities, training and services.
- Making PEG access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Please feel free to call on me, or our members at any time for information or for support in changing these bills.

Sincerely,



Anthony T. Riddle
Executive Director



About The Alliance for Community Media

The institutions of Public, Education and Government Access (**PEG**) represented by the *Alliance for Community Media* have been a model of electronic democracy for the entire world:

- More than 5,000 **PEG** Channels operate nationwide;
- More than 25,000 hours of new **PEG** programming are produced weekly—more programming than all the broadcasters combined;
- Regular participation by more than 1.2 million volunteers;
- More importantly, our channel operations serve *more than a quarter million organizations* annually!

Every Access operation seeks to fill community need, but not every community has the same needs. Community standards for speech vary from one city to the other, even within the state. Community needs can vary as well, based on existing infrastructure, level of development, geography and market forces.

Across the country, these **PEG** centers have engaged every political, philosophical and spiritual community. Estimates are that nearly 20% of all programming is from religious communities—Christian, Judaic, Islamic, Buddhist, Hindu, Native, Mormon, and others. In many cases, **PEG** Access is the only communications outlet available and open to their members.

Access channels provide programming for every conceivable ethnic, cultural and language community in our nation, including Chinese, Magyar, French, Japanese, Portugese, Criolo, Amharic, German, Hmong, multiple versions of Spanish— and far too many other languages to list here.

PEG channels often provide the only window on local government processes such as City Council and committee meetings. PEG channels offer assistance in use of key government services—services which would cost much more to deliver without PEG.

PEG channels are also the only means by which candidates for elected office can reach the public unfiltered.

The resources of our educational system are extended and enhanced through the use of PEG facilities for distance learning, teleconferencing and research.



ALLIANCE FOR COMMUNITY MEDIA PUBLIC POLICY PLATFORM

For democracy to flourish, people must be active participants in their government, educated to think critically. Communications networks which use the public rights-of-way and public spectrum must provide the means and support for that participation through community uses of media.

The *Alliance for Community Media* advances democratic ideals through Public, Educational and Governmental Access (“PEG”) centers around the country that provide people with tools, training and transmission of their programming on cable channels. PEG access exists because of the regulatory framework for cable television that has been in place for more than 20 years. The PEG model can be strengthened and applied to new technological realities, assuring that localism and community participation are not displaced by commercial interests.

What Federal Legislation is Needed?

Establish a policy of “community reinvestment” through PEG that includes funds and bandwidth and/or spectrum that will be used for public purposes by:

- Allowing the local community which owns the public right-of-way to franchise and determine the best use of the community’s property. This principle must be protected by Federal law.
- Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech.
- Mandating funding of five percent of gross revenues from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services.
- Making PEG access universally available to any consumer of advanced telecommunications services capable of full-motion video.

What’s at Stake?

- A handful of companies control most of what Americans read and see in media today.
- As entertainment, sports and commerce flourish on media, other societal needs such as public education, health care, job training, civic participation and economic development are too often ignored.
- New technologies and applications that evolve without a regulatory framework that supports public participation threaten to eliminate the capacity and resources for equipment, facilities, training and services currently provided to localities by cable companies.
- No clear public interest requirements have been attached to the giveaway of digital spectrum to broadcasters despite the fact that today, less than one-half of one percent of programming on broadcast television is local public affairs.