



Date: December 19, 2018

To: Mayor and Members of City Council

From: Patrick H. West, City Manager *P.H. West*

Subject: Opposition to Amended Cable Communications Act of 1984

For information, attached is the City of Long Beach's (City) comment letter pertaining to the Federal Communications Commission (FCC) proposed amendment to the Cable Communications Act of 1984. On October 15, 2018, the FCC proposed implementing Section 621(a)(1) of the Cable Communications Act of 1984 as it is amended by the Cable Television Consumer Protection and Competition Act of 1992. The amended Section 621(a)(1) states, with limited exceptions, "cable-related, in-kind contributions" required by a franchising agreement should be treated as "franchise fees" subject to the statutory five percent cap on franchise fees set forth in the Communications Act.

The FCC's proposed implementation would allow state video franchise holders to deduct Public, Education and Government (PEG) fees from the franchise fees paid to the City, effectively stripping the City of funding for all PEG access channels. This funding is imperative to broadcast statutorily mandated programming to the Long Beach community, such as Long Beach City Council meetings. This change in federal regulation runs counter to the City's adopted federal legislative agenda item, which supports policies, legislation and grants to fund e-government initiatives, including the ability to utilize Public, Educational and Government (PEG) franchise fee to support for both capital and operational expenses.

If you have questions or comments, please contact Diana Tang, Manager of Government Affairs, at (562) 570-6506.

cc: Charles Parkin, City Attorney
Laura L. Doud, City Auditor
Tom Modica, Assistant City Manager
Kevin Jackson, Deputy City Manager
Lea Eriksen, Director of Technology Services
Rebecca Garner, Assistant to the City Manager
Monique De La Garza, City Clerk
Diana Tang, Manager of Government Affairs

Attachment
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CITY OF LONG BEACH

OFFICE OF THE CITY MANAGER

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PATRICK H. WEST
CITY MANAGER

December 14, 2018

Federal Communications Commission
Mr. Ajit Pai, Chairman
445 12th Street, SW, Room TW-A325
Washington, DC 20554

RE: MB Docket No. 05-311 - Implementation of Section 621(a)(1) of the Cable Communications Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992

Dear Chairman Pai:

On behalf of the City of Long Beach (City), thank you for allowing our City to submit comments regarding the Federal Communication Commission's (FCC) Implementation of Section 621(a)(1) of the Cable Communications Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, Docket Number: MB Docket No. 05-311, FCC 18-131.

The City understands the FCC has tentatively concluded that, with limited exceptions, "cable-related, in-kind contributions" required by a franchising agreement should be treated as "franchise fees" subject to the statutory five percent cap on franchise fees set forth in the Communications Act. The City also understands the FCC has tentatively concluded that the mixed-use network ruling should be applied to incumbent cable operators to prohibit local franchising authorities from using their video franchising authority to regulate the provision of most non-cable services, including telecommunications services and information services such as broadband internet access service, offered over a cable system by an incumbent cable operator.

The City disagrees with these conclusions and strongly opposes the proposed rule change, as it would allow state video franchise holders to deduct the value of support for local PEG programming, such as the provision of channels for such use, from the franchise fees paid to the City - effectively stripping the City of funding for all Public, Education and Government (PEG) access channels.

PEG channels provide access to statutorily mandated programming to the Long Beach community, such as Long Beach City Council, City Charter commission, Long Beach Unified School District and Long Beach City College Board meetings. Without these funds, the City's ability to broadcast and stream these meetings in accordance with the *Brown Act*, which requires that City meetings are open and transparent to our residents and business owners, would be drastically impaired.

PEG channels also deliver other outstanding content to the Long Beach community, keeping residents and visitors informed, engaged, and connected through various programs and opportunities our City offers to the public. Local and community news is often overlooked by the main news channels, especially in the nation's largest County, Los Angeles County, where 88 cities serve over 10 million people in very different communities. In a region as diverse as Los Angeles County, funding for PEG and the programming made possible by PEG helps the Long Beach local community build a sense of belonging and most importantly keeps them engaged and participating in local decisions.

PEG programming depends on revenues the City receives from our state video franchise holders. Under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), which established the State of California as the sole franchising authority, local municipalities receive cable franchise fees based on gross revenues in exchange for the use of public rights-of-way for the delivery of video services provided within their jurisdictions. DIVCA also states that it is the obligation of the state video franchise holders to provide PEG channels. PEG funds help supply our City with the latest audio and video production equipment and infrastructure - from professional cameras, editing software, broadcast system integration to listening devices (hearing loop) and captioning equipment which helps to meet the requirements of the Americans with Disabilities Act (ADA). The City is concerned that the outcome of this FCC proposal could threaten the funding of these key programs, services and equipment.

Given these reasons, the City of Long Beach strongly opposes the FCC's proposed rule.

Sincerely,



Patrick H. West
CITY MANAGER

cc: The Honorable Senator Dianne Feinstein
The Honorable Senator Kamala Harris
The Honorable Congressman Alan Lowenthal, 47th District
The Honorable Congressman Nanette Barragan, 44th District