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Alliance for Community Media

HR 1746: The Community Access Preservation Act

Reps. Tammy Baldwin (D-WI) and Steve LaTourette (R-OH) have introduced H.R. 1746, the Community Access Preservation Act. The legislation, if adopted, would restore PEG funding eliminated by some state laws, allow PEG funding to be used for operating expenses, prevent operators from discriminating against PEG channels, and make it clear that any entity that provides video services via facilities in the rights of way is subject to the Cable Act's franchising requirements.

What follows is a short briefing paper on the Act, which we hope you will use to educate your congressional delegation and seek their co-sponsorship of the bill. The language of the bill is posted on <http://www.allcommunitymedia.org/>.

Summary of the Community Access Preservation Act

Public, educational and government ("PEG") channels permit schools, governments, individuals and groups to provide and receive information about local events, emergencies, and issues. The channels encourage creation of local programming by civic groups and non-profits, cover government and school meetings, and promote localism and civic engagement. The CAP Act responds to four immediate threats to PEG and these critical local communications.

1. Ensures Funding and Eliminates Unnecessary Limits on the Use of PEG funds

Issue: Under the Cable Act, a cable operator and a local community may negotiate for PEG support in addition to the franchise fee payments for use of public rights of way. The FCC recently ruled, subject to some important exceptions, that this PEG support may only be used for facilities and equipment, and not for PEG operating expenses.

Effect: Some communities are closing PEG facilities because there are no funds to operate them.

Solution: The bill amends the Act to ensure that PEG fees can be used for any PEG purpose and establishes Cable operator must provide greater of:

- 2% of gross revenues;
- Historical support received (i.e. prior to the state franchise); or
- State franchise financial obligations.

2. Discriminatory Treatment of PEG channels.

Issue: The Cable Act provides that PEG channels should be free from cable operator interference and available to all cable subscribers. Accordingly, operators historically have provided local commercial television signals and PEG in the same manner, to all subscribers, and

without additional charges. Some operators are now providing PEG channels that are less accessible, lower quality, missing basic functionality and higher priced.

Effect: PEG is less accessible to all subscribers, and the most vulnerable viewers may lose access to basic local information altogether.

Solution: The bill reaffirms that operators must deliver PEG channels to subscribers without additional charges, and without “material degradation and without altering or removing content or data” and such signals shall be viewable “by every subscriber of the cable system without additional service or equipment charges...” The bill also requires that a cable operator must provide the number of PEG channels in place the day before state law was passed, and if that number was zero, then at local franchising authority’s discretion, then up to 3 channels.

3. Study of Losses in PEG Support and Localism

Issue: Federal law envisioned that PEG requirements would be established on a community-by-community basis. Several States, while intending to preserve PEG, adopted statewide video franchising standards without regard to local needs and interests.

Effect: Statewide standards are resulting in widespread elimination of PEG.

Solution: Immediate action is needed to preserve PEG to permit Congress to review the impact of these changes on local programming. The FCC is directed to investigate and to report to Congress on the impact of State video service franchising laws since 2005 on PEG.

4. Definition of Cable System

Issue: Entities that provide video services via wired facilities in the rights of way are intended to be subject to Cable Act rules, regardless of the transmission protocol used to deliver service, but some claim that the law is unclear, creating doubt as to where the rules apply.

Effect: Some providers claim they are not cable operators and therefore not subject to Cable Act obligations.

Solution: The Act is amended to ensure it is technologically neutral. Providers using wired facilities in the rights of way are treated similarly and are subject to similar PEG requirements.



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Community Access Preservation Act (CAP Act)

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Here you can find resources including basic information, letter templates and updates on the Community Access Preservation Act (CAP Act) H.R. 1746.

Cap Act Summary – Main Points

A short briefing paper on the Act, which we hope you will use to educate your congressional delegation and seek their co-sponsorship of the bill.

Current Cosponsors (updated as of 7.10.12)

- Rep LaTourette, Steven C. [OH-14] – 5/5/2011
- Rep Ryan, Tim [OH-17] – 10/5/2011
- Rep Jackson, Jesse L., Jr. [IL-2] – 10/5/2011
- Rep McCollum, Betty [MN-4] – 10/5/2011
- Rep Serrano, Jose E. [NY-16] – 10/5/2011
- Rep Moore, Gwen [WI-4] – 10/5/2011
- Rep Stark, Fortney Pete [CA-13] – 10/5/2011
- Rep Woolsey, Lynn C. [CA-6] – 10/5/2011
- Rep McGovern, James P. [MA-3] – 10/5/2011
- Rep Speier, Jackie [CA-12] – 10/5/2011
- Rep Ellison, Keith [MN-5] – 10/5/2011
- Rep Connolly, Gerald E. "Gerry" [VA-11] – 10/5/2011
- Rep Markey, Edward J. [MA-7] – 10/5/2011
- Rep Frank, Barney [MA-4] – 10/12/2011
- Rep Eshoo, Anna G. [CA-14] – 10/14/2011
- Rep Keating, William R. [MA-10] – 10/14/2011
- Rep Blumenauer, Earl [OR-3] – 10/25/2011
- Rep Schakowsky, Janice [IL-9] – 11/1/2011
- Rep Pingree, Chellie [ME-1] – 11/4/2011
- Rep Garamendi, John [CA-10] – 1/24/2012
- Rep Lee, Barbara [CA-9] – 1/17/2012
- Rep Lofgren, Zoe [CA-16] – 3/6/2012
- Rep Capauno, Michael E. [MA-8] – 4/25/2012
- Rep Kaptur, Marcy [OH-9] – 6/18/2012
- Rep Michaud, Michael [ME-2] – 6/18/2012
- Rep Waters, Maxine [CA-35] – 7/10/2012

To track the CAP Act, [please go here.](#)

Sample Resolution for Local/State Governments

Resolutions

- [City of Austin](#)
- [Princeton Township](#)

Resolution In Support of the Community Access Preservation Act (CAP Act), H.R. 1746

WHEREAS, public, educational and governmental cable channels and community media centers in [] provide critical services to local residents, including government meetings, workshops, youth programming and local news and information; and

WHEREAS, on average, a local community media center produces more than 1,100 hours of original local programming each year, with some centers producing upwards of 15,000 hours per year;

WHEREAS, any community media centers provide critical digital literacy training for high school students and adults, and employ thousands of individuals across the country;

WHEREAS, community media does not receive a federal appropriation from Congress as does public broadcasting, but relies on fees paid by cable companies through franchise agreements;

WHEREAS, the Community Access Preservation Act (CAP Act) responds to several immediate threats to community media;

NOW, THEREFORE, BE IT RESOLVED:

We recommend that Communications Act be amended by way of the CAP Act so that public, educational and governmental access funding may be used to support basic operational costs, including employee salaries;

We recommend that the Communications Act be amended by way of the CAP Act to reaffirm the principles that cable providers should not discriminate, and should community media the same as other local broadcast channels;

We recommend that the Communications act be amended by way of the CAP Act to promote the preservation of public, educational and governmental channels and ongoing funding from cable providers for local programming, digital literacy training, public security and workforce development.

We recommend that all U.S. House and Senate members from the State of _____ support the CAP Act.