

SUPPORT THE PROTECTING COMMUNITY TELEVISION ACT

ACTION NEEDED:

Urge your members of Congress to support and cosponsor the Support the Protecting Community Television Act (S.3361/H.R.6219). Introduced by Sens. Ed Markey (D-Mass.) and Tammy Baldwin (D-Wisc.) and Reps. Anna Eshoo (D-Calif.) and Peter DeFazio (D-Ore.) on December 9, 2021, the legislation would amend the Communications Act of 1934 to reverse the Federal Communication Commission's (FCC) 2019 order requiring that cable-related, in-kind contributions be subjected to the statutory five percent franchise fee cap.

BACKGROUND:

On August 1, 2019, the FCC adopted a ruling usurping local franchising authority. Under the FCC rule, cable related, in-kind contributions required by local franchising authorities are considered a "franchise fee."

Franchise fees are used by local governments to maintain public rights-of-ways used by cable companies. Local franchising authorities often require cable providers to offer in-kind contributions, such as public, educational and government (PEG) channels, as a condition to a franchise agreement. These in-kind contributions, including PEG channels, provide significant public benefits to communities, including transparency and accountability through access to local and regional government meetings; educational programming including for-credit courses; coverage of local events; local election coverage; candidate forums; and public safety programming.

By considering in-kind contributions a "franchise fee," the order requires the expense incurred by cable operators providing PEG channels be subject to a statutory five percent franchise fee cap established under the Communications Act of 1934. Subjecting in-kind contributions to the franchise fee cap could contribute to a reduction of 30 to 40 percent in franchise fees, resulting in a significant drop in resources for PEG channels.

LOCAL GOVERNMENTS ARE CURRENTLY PERMITTED TO REQUIRE, AS PART OF CABLE FRANCHISE AGREEMENTS, THAT CABLE PROVIDERS MEET DEMONSTRATED COMMUNITY NEEDS BY PROVIDING IN-KIND CONTRIBUTIONS THAT BENEFIT SCHOOLS, PUBLIC SAFETY BUILDINGS, AND PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) CHANNELS.

HOWEVER, IN AUGUST 2019, THE FCC VOTED TO PERMIT CABLE COMPANIES TO ASSIGN A VALUE TO THESE CONTRIBUTIONS AND THEN SUBTRACT THAT AMOUNT FROM THE FRANCHISE FEES THE CABLE OPERATOR PAYS THE LOCAL COMMUNITY.

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The rule, which went into effect on September 26, 2019, allows cable companies to deduct the fair market value of any services required by a franchise agreement. This could have a disproportionate impact on smaller communities, where the revenue generated from a cable TV channel is more valuable than that generated in a large urban area.

KEY TALKING POINTS:

- It is critical that we work to maintain our PEG operations, which provides critical information during the COVID-19 pandemic as well as helps the community engage in local matters for the public good.
- As providers of essential community services, counties are deeply invested in maintaining community resources which local non-profits and community members rely upon to communicate with the public.

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