

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 Federal Communications Commission (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.

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.

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.

AS A RESULT, **LOCAL GOVERNMENTS HAVE TO DECIDE** BETWEEN SUPPORTING PEG STATIONS IN CABLE FRANCHISE AGREEMENTS AND SUPPORTING OTHER IMPORTANT SERVICES FOR CRITICAL COMMUNITY INSTITUTIONS, SUCH AS SCHOOLS AND LIBRARIES.

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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