

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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

**COMMENTS OF [NAME OF JURISDICTION]**

[NAME OF JURISDICTION] appreciates the opportunity to file comments on the Second Further Notice of Proposed Rulemaking (“FNPRM”) in the above-referenced docket. [INSERT STATEMENT OF OPPOSITION TO PROPOSED RULES IN THE FNPRM. For example: We strongly oppose the tentative conclusions in the FNPRM that cable-related in-kind contributions are franchise fees and that local governments have no authority regarding cable operators’ use of the rights of way to provide non-cable services.]

[INSERT DESCRIPTION OF JURISDICTION AND FACTS THAT MAY BE USED IN SUBSEQUENT PARAGRAPHS TO DEMONSTRATE IMPACTS OF THE FNPRM, which may include population, cable operators serving the community (noting state or local franchises); PEG operations, if any; amount and use of cable franchise fees (*i.e.*, services funded with the fees); etc.]

[DISCUSS IMPACTS OF REDUCED CABLE FRANCHISE FEES AND IMPACT ON PEG CHANNELS, such as (to the extent applicable): the impact to your budget of reduced franchise fees; the impact on services funded by franchise fees; the long-standing agreement (or agreement in recent franchise negotiations, or both) from the cable operator that “cable-related in-kind” obligations are not franchise fees; using fair market value to determine the amount to be

considered a franchise fee will lead to arbitrary deductions; the value of PEG channels in the community, etc.]

[ADDRESS THE BROAD SCOPE OF THE DEFINITION OF IN-KIND CONTRIBUTIONS AND THE IMPLICATION THAT THESE TYPES OF SERVICES ARE CONTRIBUTIONS TO THE LFA RATHER THAN THE GENERAL PUBLIC. NOTE ANY “IN-KIND CONTRIBUTIONS” THAT ARE REQUIRED IN YOUR FRANCHISE AND EXPLAIN THE PUBLIC BENEFITS OF THESE OBLIGATIONS. For example: The FNPRM requests comment on “other requirements besides build-out obligations that are not specifically for the use or benefit of the LFA or an entity designated [by] the LFA and therefore should not be considered contributions to an LFA.”<sup>1</sup> We support the tentatively conclusion that build-out requirements are not franchise fees because they are not contributions to the franchising authority. The same reasoning should be applied to other cable-related contributions the Commission tentatively concludes are franchise fees. Franchise obligations such as PEG channels and local customer service obligations are more appropriately considered community benefits, not contributions to LFAs, and, like build-out obligations, should not be considered franchise fees. For example, our franchise agreement requires the cable operator to [INSERT OBLIGATION AND DESCRIBE PUBLIC BENEFIT].

[FOR JURISDICTIONS WITH PEG CHANNELS, CONSIDER INCLUDING A PARAGRAPH ON THE VALUE OF PEG, WHICH IS NOT FOR THE BENEFIT OF THE LFA OR PEG PROVIDER, BUT FOR THE COMMUNITY AS A WHOLE.]

[DISCUSS IMPACTS OF THE PROPOSED MIXED-USE RULE, WHICH WILL PREEMPT LOCAL GOVERNMENT REGULATIONS OF CABLE OPERATORS’ NON-

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<sup>1</sup> FNPRM ¶ 21.

CABLE SERVICES. For example, if your jurisdiction collects franchise/license/rights of way fees from cable operators for their non-cable services, discuss the impact of this loss of revenue; if your cable franchise does not address installation of non-cable services/facilities, discuss the public safety and livability issues related to cable companies deploying wireless facilities or other non-cable facilities without any local oversight; discuss concerns about maintaining a level playing field among providers of similar services where you are precluded from applying the same regulations to cable operators as are applied to non-cable operators that provide competing services; etc.]

[CONCLUDING PARAGRAPH, which can reiterate your opposition to the proposed rules in the FNPRM.]

Respectfully submitted,  
[SIGNATURE]

[NAME]  
[TITLE/ADDRESS]

[DATE]