

United States Senate

WASHINGTON, DC 20510

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July 25, 2019

The Honorable Ajit V. Pai
Chairman
455 12th Street SW
Washington, DC 20544

Dear Chairman Pai:

We write concerning your draft proposal released earlier this month in the Federal Communications Commission's (FCC) proceeding entitled, "Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection Act of 1992" (MB Docket No. 05-311). We find this proposal very concerning given the impact it will have on the vitality of New York's public, educational, and governmental (PEG) channels as well as its impact on Institutional Network (I-Net) services and broadband connections to schools and public buildings. As you and your colleagues vote on this item, we ask that you take into account the important role PEG stations and I-Net services play in local communities and ensure that the final outcome does not threaten the livelihood of PEG channels and I-Nets throughout New York and the nation.

We have heard from local governments and municipalities across our state who fear, if enacted, this rulemaking would undermine their ability to provide critical services to their communities by putting funding for these services at risk. New Yorkers rely on over seventy PEG channels across the state to keep up with their local government proceedings and business; town school board meetings; nearby high school and college news and events; religious news from local places of worship; important local and regional emergency alerts and related information; and other locally produced programming.

We believe your proposal as released in draft form would fundamentally change the terms of the carefully negotiated governing agreements between cable operators and Local Franchising Authorities (LFA). These agreements represent a meeting of the minds of what is fair and reasonable between the parties, based on extensive negotiations and the history between the parties. The cable operators derive significant benefits from those franchise agreements, and in return, the franchisees agree with the LFAs to provide support and channel capacity to PEG channels (along with other obligations to the local communities in which they are allowed to operate).

The changes proposed in your draft order would permit cable operators to put a dollar value on PEG channels along with certain other "in-kind contributions" and allow them to deduct that amount from their franchise fee payments. This proposal would restrict the ability of local municipalities to tailor cable franchise agreements to meet their unique community needs. In fact, we fear that this proposal would force local municipalities to choose between maintaining PEG channels, and other long-standing and mutually agreed-upon franchise provisions, or funding other critical services that benefit their communities.

In addition, we would like to emphasize the importance of I-Net services throughout New York City, and the potential impacts your proposal could have on them. It is our understanding that your draft order claims there will be no impact on I-Net services, and that the FCC is not preventing localities from including I-Net services in their franchise agreements. However, if the cost of the I-Net is now considered to be a part of the five percent franchise fee, then localities will be forced to decide which is more important – the I-Net services or the revenue from the fee. This once again puts local municipalities in a lose-lose situation, one that we fear could be detrimental to the I-Net system. We strongly urge you to rethink your proposal and the consequences it could have on cities like New York who rely heavily on I-Net services along with PEG channels.

Congress understood the important role PEG programming and I-Net services play in communities, and expressly intended for these services to flourish by being included in franchise agreements separate from the franchise fees. PEG channels act as a platform for local voices to be heard, news to be shared, and local government transparency to be enforced. Congress intended that LFAs have the authority to preserve the diversity of programming PEG provides through their franchise agreements. As it stands right now, your proposal would limit the ability of LFAs to take into account the needs of their local communities, as contemplated by the Communications Act, by undermining PEG channels around the country. We urge the FCC to reject any rule that would undermine the value PEG channels and I-Net services provide to New Yorkers and the rest of the country or harm existing local government authority over franchising agreements.

Thank you for taking the time to consider our concerns and for your attention to this issue.

Sincerely,



Kirsten Gillibrand
United States Senator



Charles E. Schumer
United States Senator