



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

September 22, 2020

The Honorable Bonnie Watson Coleman
U.S. House of Representatives
1535 Longworth House Office Building
Washington, DC 20515

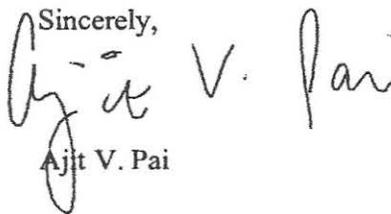
Dear Congresswoman Watson Coleman:

Thank you for your letter regarding the Commission's Third Report and Order implementing Section 621 of the Communications Act and other provisions in Title VI of the Act. Because I believe that the Third Report and Order faithfully interprets the law enacted by Congress, the Commission has no plans to reverse that decision.

As you know, the Communications Act limits franchise fees to five percent of cable revenues and defines "franchise fee" to include "any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such." 47 U.S.C. § 542(g)(1). Among other things, the Third Report and Order clarified, after a remand from the U.S. Court of Appeals for the Sixth Circuit in 2017, that cable-related, "in-kind" contributions—including PEG-related contributions—required by a cable franchise agreement are franchise fees subject to the statutory five percent cap, with limited exceptions as set forth in the statute. Most notably, although Congress included an exemption for certain capital costs related to PEG channels for franchise agreements granted after 1984, it did not exempt payments made by cable operators for non-capital costs of PEG channels. Likewise, the Commission carefully evaluated the relevant statutory language when affirming that local franchising authorities may not regulate the provision of most non-cable services.

While certain local franchising authorities requested that the U.S. Court of Appeals for the Sixth Circuit stay the effectiveness of the Third Report and Order, the court rejected that request, noting that the franchising authorities "have asked us to enjoin what appears to be a correct interpretation of a federal statute." The Third Report and Order is therefore now effective, and I believe that it will survive judicial review.

Please let me know if I can be of any further assistance.

Sincerely,

Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

September 22, 2020

The Honorable Donald M. Payne
U.S. House of Representatives
132 Cannon House Office Building
Washington, DC 20515

Dear Congressman Payne:

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