

**Before The  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.**

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

**COMMENTS OF RICH EYRE**

1. I am a supporter of a supporter of locally owned and diverse radio. I follow issues that involve the availability of media in rural and underserved areas. I make the following comments as a private citizen not representing any company or organization.

2. I see these changes as a method of allowing competitive emerging technologies to be deployed to citizens of all walks of life without the issues of Local Franchise Authorities ("LFA").

3. Terrestrial based cable providers such as traditional cable television, telephony based systems like Qwest Choice TV VDSL as well as future IPTV technology such as the Verizon FiOS system can provide two-way interactive services that can't be achieved by Direct Broadcast Satellite (DBS) services. Currently, DBS providers are not subject to LFAs since they do not require any rights-of-way in order to provide their services.

4. I feel that with the relief from LFA, the entire industry can continue to develop new technologies and will be motivated by competition to continuing to improve their services.

5. However, there is one aspect of LFA that protects our citizen's access to the airwaves. Many (but not all) LFA require that cable providers make available a certain amount of capacity for public, education and government (PEG) channels. If a competing company is permitted to do business in a municipality without a LFA, there is no guarantee that the competing company will provide PEG channels to their customers. The competing providers have this ability (to provide PEG channels) that satellite does not have.

6. I feel that these competitive providers must preserve the PEG services. In Section 25.701 of the Commission's Rules, DBS providers are required to provide at least 4 per cent of capacity to qualified non-commercial educational (NCE) broadcasters. I feel that competitive providers who choose not to obtain a LFA should be subject to certain public interest guidelines similar to DBS.

7. I am asking that the Commission to consider an "Alternate Form of Regulation" (AFOR) for MVPDs who do not want to follow the LFA route. These include:

- For all areas where an MVPD builds out to, the local municipality is eligible for three "must carry" channels for all customers who reside within that specific municipality<sup>1</sup>.
- MVPDs following AFOR should be required to dedicate at least 4% of it's channel capacity for eligible non-commercial organizations of which, at least 50% should be from local origination<sup>2</sup> programming providers.
- A qualified organization should be permitted to provide an audio-only service. Such service should count as one third of a TV channel towards the overall system capacity.
- Local non-commercial TV broadcast stations carried on the system will count towards the 4% NCE qualification but not towards the 50% local origination qualification. This does

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<sup>1</sup> - The intention here is one channel for public access, one channel for education access and one channel for government access (city council meetings, etc.).

<sup>2</sup> - In this case, we can consider "local origination" as any programming service that provides at least 8 hours a day of programming produced either within the city limits or within 10 miles of the city limits of the municipality where the programming is carried. For unincorporated areas, from within the county of within 10 miles of the county boundaries. Time the channel is operating a barker message will not count unless the background audio is locally produced. Pre-recorded music (unless locally produced) does not count. This will discourage running automation to justify "local origination". This rule is a modified version of §73.872(b)(3) that applies to Low Power FM (LPFM) radio stations which specifies that a point for local origination can be claimed if at least 8 hours a day of programming is produced within 10 miles of the transmitting antenna. Since a cable system has the capability to be

not relieve the provider of other carriage rules towards full power TV stations even if the addition of the stations to the non-commercial line-up accounts for more than 4% of the capacity.

- The local government must carry channels as stated above will also count towards the 4% requirements.
- As with the DBS rules, the provider following AFOR may recover reasonable fees to cover their costs of distributing the NCE providers wishing access.
- In computing capacity, only passive TV channels provided such as broadcast stations, cable networks, premium channels and audio only services should be taken into consideration. Services such as video on demand (VOD) and subscription video on demand (SVOD) takes capacity only as well as ancillary services such as high speed data (HSD) do not count towards a system's capacity when determining the number of channels that must be set aside for NCE operators.

8. I definitely support new choices and technologies as well as competition that could lead to lower prices for services. I am concerned though that by dropping the requirements for LFA would jeopardize the little remaining localism in television and would deny citizens access to the airwaves through their local cable system. I support an alternative form of regulation where MVPDs who wish to bypass the LFA process should be subject to similar public interest guidelines that currently apply to DBS providers except that unlike the DBS providers, these providers must give priority to local voices.

Respectfully Submitted,

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distributed throughout the municipality with an equally strong signal, we propose to start the 10 mile measurement at the city limits.