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Testimony of

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On Behalf of

**THE ALLIANCE FOR COMMUNITY MEDIA**

On

Video Franchising

**The U.S. Senate Committee  
On Science, Commerce and Transportation**

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Good morning, Chairman Stevens, Senator Inouye and Members of the Committee. I am Anthony Riddle, Executive Director of the Alliance for Community Media. I previously served as the Executive Director of the Public Access Centers in Atlanta, Minneapolis and Manhattan, New York. I want to thank Chairman Stevens for inviting me to testify today on behalf of the Alliance for Community Media, a national membership organization representing 3,000 public, educational and governmental (“PEG”) cable television access centers across the nation. Those centers include 1.2 million volunteers and 250,000 community groups and organizations that provide PEG Access television programming in local communities across the United States. Local PEG programmers produce 20,000 hours of new programs per week – that’s more new programming than all of the broadcast networks combined. As reported in the New York Times on November 9, 2005:

*“For every hour of “Desperate Housewives” on ABC, the nation’s 3,000 public-access television channels present dozens of hours of local school board meetings, Little League games and religious services.”*

The Center for Creative Voices released a report last Fall that shows that as large group owners control more local broadcast stations in a market, local programming disappears, replaced by nationally produced programs that seek to draw larger audiences through more inflammatory material. Media consolidation furthers this trend. The report found that locally controlled programming is more responsive to community needs.

Congress has traditionally recognized the need to foster localism in communications. At a time when studies show that less than one-half of 1% of programming on commercial television is local public affairs, PEG centers serve the people in your home town, city, and district.

We urge you to oppose proposed bills that would directly and substantially threaten the future of PEG programming throughout the nation. My testimony focuses largely on values that would most directly impact PEG funding and capacity. On the wider issues of franchising we support the testimony of Lori Panzino-Tillery on behalf of local government organizations.

As Chair of the Alliance, I had the opportunity in 1994 to visit post-Glasnost Russia as a member of former President Carter's Commission on *Radio and Television Autonomy in the Former Soviet States*. The Commission included many industry leaders and, notably, Chairman Stevens. The Alliance for Community Media played a small, though distinct and meaningful, role on the Commission: I shared with the former Soviets the American notion that a free people, in order to remain free, must have the ability to communicate openly with each other, must have the means to both receive and send information to their freely elected government, and must vigilantly defend the need for open and accessible networks.

Their eyes lit up immediately with recognition. Having then recently emerged from the tight control of Communism they easily understood what we in the US often take for granted. Across the gulf that separated us, I asked one, "What was the major problem with Communism?" With a knowing twinkle in his eye, he told me, "*All of the radio and television signals ran through a single switch on one man's desk at the Politburo.*"

It seems a hundred years since the collapse of the Soviet Empire. The reality is that we were already working at that time on what became the 1996 Telecommunications Act. It was not so long ago.

The best way to secure the diversity of voices required of a Democratic society is to create and support a free-standing, independent space for public dialogue. Congress did just that by providing for PEG facilities with financial support and placing them under the stewardship of

local franchising authorities. What has blossomed in the past 30 years is a vital local communications resource that reflects the unique character of the thousands of cities, towns and hamlets which it serves.

## **I. PEG PROGRAMMING – THE LAST REDOUBT OF LOCAL CHARACTER.**

The federal Cable Act authorizes local franchising authorities to require cable operators to set aside capacity on their systems for PEG use,<sup>1</sup> and to require cable operators to provide, over and above the 5% cable franchise fee, funds for PEG capital equipment and facilities.<sup>2</sup> The amount of PEG capacity that is set aside on a particular system, as well as the level of funding provided by the cable operator, is locally determined, based on each community's determination of its own particular cable-related community needs and interests.<sup>3</sup>

The PEG provisions of the Cable Act are intended to provide all members of a community with access to the medium of television. Indeed, PEG is the only way that average citizens and community groups can interact in their communities via television. Particularly in this era of mass media consolidation, PEG Access ensures that locally-produced programming, of interest to and tailored to the particular local needs of the community, has an outlet on television.

PEG Access has served that purpose exceedingly well. Among other things, PEG provides:

- The only **unmediated coverage Congress Members** receive in the home district. Many members of Congress use Public Access channels to communicate directly with their

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<sup>1</sup> 47 U.S.C. § 531.

<sup>2</sup> 47 U.S.C. § 542(g)(2)(C).

<sup>3</sup> *See*, 47 U.S.C. §§ 546(a)(4)(B) and 546(c)(1)(d).

constituents. PEG is often one of the only media outlets in a locality providing regular political and civic programming to local residents.

- **Church Outreach** -- Religious programming represents 20-40% of programming at most Public Access centers. For the shut-in and infirm, this is often the only means by which they can participate in local services.
- **Coverage of local cultural activities**, particularly in smaller communities that do not receive commercial media attention. Examples include coverage of local historical, art and music events.
- The ability to maintain the **local cultural identities of our towns, cities and counties**. Examples include coverage of local high school football games, local parades and other civic events.
- **Local Governmental Programming** – Coverage of city/town/county council meetings, and local police, fire, and public safety programming.
- **Local Education Programming** – Cablecast of public school and local college educational programming.
- **Technical training and jobs**. PEG centers provide vocational training in television camera and production work for local residents and nonprofit groups that would otherwise have little to no access to media tools and education.
- **News for military families** – Army Newswatch is the most-syndicated program on PEG channels, with carriage on over 300 PEG channels nationwide.

Let us provide you with some typical local examples from around the country:

**Ann Arbor, Michigan** At Community Television Network, the Public Access center created a program in partnership with National Kidney Foundation focused on the risks of kidney disease among African-American men and women. African-Americans are seven times more likely to get kidney disease compared to white Americans. The award winning program has been cablecast on PEG channels throughout the state of Michigan.

**Austin, Texas** Founded in 1972 by college students, Austin Community Television has been instrumental in the recognition of as the *live music capital of the nation*. Tejano music was little known outside the small Latin clubs in Austin until producers Isidoro Lopez and Jerry Avala began their Public Access television show. Lopez, 67 years old, disabled and full of energy. His show fully involves the Hispanic community, including bands, local businesses and volunteers. Isidoro says, *“Without the Public Access Channels, no one would have known about this kind of music. The public greatly enjoys this service and wouldn't find it anywhere else.”*

More recently, with the influx of Hurricane Katrina survivors into Austin, many have found their voices on ACTV – and they say they have found a home.

**New Jersey** PEG stations are working with county governments to incorporate emergency public notification via the 150+ stations throughout the state. The system will allow communication from any emergency command location or mobile disaster unit to the communities affected via PEG stations. This system will have the ability to interrupt programming instantly with text notices that include health hazard notifications, aid station locations, and evacuation instructions. Using PEG stations, this system will help to keep the public informed and safe in the event of any emergencies—from a local level crisis to support of national disaster relief organizations.

**Missoula, Montana** Missoula Community Access Television provides training to over 60 at-risk students at Willard School, an alternative school that is the final attempt to keep troubled kids in school and in the system. The TV class helps students connect to school, to each other and to the community. According to Gwenn Hoppe, long-time media arts teacher, *“Having a local communication channel is such a blessing for my kids, who especially need to feel included in the community. The TV show we make profiles every senior student's courage in making it through the program. It changes a school celebration into a community celebration and the psychological effect on the seniors, and the students struggling to stay in school is positive, permanent and priceless.”*

**Olympia, Washington** Cherie Tessier is a 51 year-old, developmentally disabled woman who, for the past 16 years, has produced Public Access television programs at Thurston Community Television. Her show advocates for the rights of the disabled, educates the community about disability issues, and engages elected officials. Physically and developmentally challenged people participate to tell their stories, dispel myths about disabilities, and discuss public policy. Without the media tools, training, and channels provided by Thurston Community Television, Cherie's message would be heard by very few people. There is *no other form of media* that Cherie could afford to use that would provide her with access to this large an audience.

When asked one day why she worked so hard to make her programs, her answer was simple, *“Because I've learned to speak for myself, and this is what I want other disabled people to learn, too”*.

**Chicago, Illinois** During the 2004 election season, Chicago Access Network Television (CAN TV) ran 160 hours of local election coverage, including information on candidates for

presidential, senatorial, congressional, and local judicial elections, as well as in-depth interviews by *The Illinois Channel* with state district candidates. CAN TV devotes its resources to local programming with an annual budget that wouldn't buy a single thirty-second commercial during the Super Bowl. Those modest resources can be put at risk by adverse legislation. In an earlier article on CAN TV's election coverage, the *Chicago Tribune* reported that, "*Chicago's five access channels bring no small measure of serious politics, especially involving those largely shut out heretofore from mainstream commercial media, including blacks, Hispanics, and, of course, Republicans.*" (We are talking about Chicago.)

**Cincinnati and Hamilton County, Ohio** Media Bridges cablecasts more than 15,000 hours of local programming produced by and for greater Cincinnati by organizations like the Contemporary Arts Center, the Lifecenter Organ Donor Network, and Literacy Network of Greater Cincinnati, as well as better than 80 area religious organizations. According to a 2003 study, the 96 cents per subscriber per month in PEG Access support providing the majority of Media Bridges' financial support is multiplied almost *seven times* to provide an economic impact in greater Cincinnati of more than \$5.3 million per year. Loss of this support would hurt more than just the PEG community in Cincinnati.

**Knoxville, Tennessee** Community Television of (CTV), has served the residents of Knoxville and Knox County for 30 years. For only \$24 per year, the typical volunteer community producer at CTV receives training and unlimited use of PEG equipment (including cameras, studios, and editing equipment) to produce and air their own television programs. There is no other means by which community residents can find such an inexpensive way to effectively reach 110,000 community households with information pertaining to local issues,

local resources and matters of interest to them, from support for victims of Alzheimer's disease and their families, to foster care, law enforcement, and youth recreation.

**Cambridge, Massachusetts** Every week, Cambridge Community Television (CCTV) produces 50.5 hours of live programs on its BeLive set – shows that include *Crime Time*, produced by the Public Information Officer of the Cambridge Police Department, *Bed Time Stories*, *Muslims Inside and Out*, *Local Heroes*, and two smoking programs, one against, and one for smokers' rights. Even though Cambridge is a city of over 100,000 residents, it is in the shadow of the Boston media market, and the commercial television stations and daily newspapers consequently do not cover the local elections. As a result, CCTV's election programming is the only place that residents can tune in to learn more about local candidates.

**Southern Oregon** Rogue Valley TV is the PEG Access organization for four cities and three counties. Since 1999, the Medford Police Department has produced *Rules of the Road*, a monthly, one-hour live call-in program about traffic and pedestrian laws. The police average 30 phone calls per show as Medford residents jam phone lines waiting to talk with their local police officers. Without use of institutional network fiber and equipment purchased with PEG funds, the program would never reach homes in Medford, Eagle Point and Jackson County, and the phones would be silent.

**Bismarck, North Dakota** Inmates at the State Penitentiary called CAT Channel 12 for help. They had watched, recognized the power of television and felt that they had a unique, powerful first-hand message to share— one which could help to stop methamphetamine use. They needed help in making getting the message out. Community Access Television (CAT) stepped up to work with the inmates. Programs were taped in the penitentiary treatment facility, an area that overflowed due to the drug crisis.

An inmate hosted the program, asking tough questions of fellow inmates: “*What would you tell your daughter now—why would you choose meth over her?*” And, “*What would you tell your dead mother about why you robbed her?*” Life hardened inmates sobbed.

Local schools and churches, the State Attorney General’s Office and groups from Fargo all called for copies of this program which had been both televised and streamed on the internet. Senator Conrad’s office contacted CAT for further information. The inmate host of the program, now in a half-way house, says “*If only one person quits or doesn’t use methamphetamine, the time to make this program was worth it.*”

In a different vein, **Tucson, Arizona**’s *Correction* is a documentary that compares the training correctional officers receive with their real-life experiences inside prison. Four people seen negotiating the Arizona Department of Corrections’ seven-week training academy reveal that officers, inmates and the correctional system itself are caught between the contradictory imperatives of security, justice, punishment and the economic realities of state government. Media-maker and University of Arizona Associate Professor Michael Mulcahy is working to break stereotypes found in most movies and television by using the experiences and perspectives of actual corrections officers. He says, “*What I saw in prison was nothing like those movies. I saw something that was incredibly complex and incredibly difficult, incredibly ambiguous.*”

**Albuquerque, New Mexico** As an example of the diversity which can be found in even one PEG center, Sandia Prep School recently sent 30 students through *Quote...Unquote*’s Public Access orientation class as this highly rated academy began its third year of television production. One student producer used this experience to win a scholarship to a top college. For four years *Quote...Unquote* cablecasts the Catholic Archdiocese of Santa Fe’s daily lunch mass

for shut-ins to pray *The Rosary*. It also cablecasts *Gun Club of New Mexico*, a firearms collector NRA program produced locally by volunteers.

The examples mentioned so far have dealt with a wide variety of people, organizations, educational institutions, and local governments that have used PEG access to create and distribute local programming. However, it is important to note that there is also great interest in viewing locally created PEG programming. Over the past ten years, an independent research firm has surveyed cable television subscribers in 38 different communities throughout the nation, with populations ranging from less than 10,000 to over a million residents. Respondents to these surveys were asked how important they felt it was to have PEG channels on their cable system for use by local community groups, educational institutions, and public agencies. 74% of the survey respondents in these diverse communities said that having these channels available was "very important" or "important" to them.

PEG demonstrates through action that we can, indeed, all find a way to live together—*and that all of us are better for it.*

## **II. PEG ACCESS IS ONLY POSSIBLE IF THERE ARE ADEQUATE FUNDS TO SUPPORT COMMUNITY USE.**

The overwhelming majority of PEG funding comes from two sources: (1) monetary and in-kind support for PEG capital facilities and equipment from the cable operator over and above the 5% cable franchise fee that is required by the local franchise agreement; and (2) contributions by the local franchising authority of a portion of the 5% cable franchise fee to PEG.

At Manhattan Neighborhood Network (MNN), our operating support came through an appendix to the franchise agreement negotiated directly with Time Warner Cable that provided for both operating and capital support. The operating support was paid directly to MNN by Time

Warner quarterly and was less than 1% above franchise fees, or around 60 cents per sub per month. The capital support was paid annually at 50 cents per subscriber. Thus, the combined public access support payments averaged about 64 cents per subscriber per month. In a system of 500,000+ subscribers, this percentage provides adequate support for service to the community. In a system of 50,000, a different formula would certainly be necessary.

In other places, such as Kalamazoo, MI for example, PEG funding comes from both a portion of the franchise fee and from the cable company. The Access Center receives 35 cents/month/subscriber for PEG support and, in addition, the communities contribute 40% of their franchise fees. In Cincinnati and Hamilton County, Ohio, the Access Center receives 96 cents/subscriber/month in PEG support from the cable operator as required by the local franchise agreement.

We would oppose any funding regimen that would eliminate and/or substantially reduce either of those sources of funds to support PEG.

***A. The Loss of PEG Capital Support Obligations.***

The Cable Act allows local franchising authorities to require a cable operator to provide PEG Access capital facilities and equipment funding over and above the 5% franchise fee. We believe it is important to maintain this support mechanism. It is important that any new bill include provisions that allow municipalities to require that broadband video service providers fund PEG Access production facilities and equipment at rates comparable to those of incumbent cable operators. Otherwise, over time, the incumbent cable operators would no longer provide such PEG support, as they would no doubt refuse to continue to incur a cost not incurred by its broadband video service provider competition. Alternatively, the incumbent cable operator might eventually transform itself into a broadband video service provider, thereby freeing itself

directly from its PEG support obligations. The Alliance for Community Media requests elimination of the provision in current cable law which restricts use of funds above the 5% franchise fees so that those funds may be used for both capital and operational support, as determined locally.

***B. A Reduced Franchise Fee Revenue Base Would Reduce Local Franchising Authority Financial Support for PEG.***

Much of the language being proposed restricts the “gross revenue” base for the 5% franchise fee to *revenue collected from subscribers*. As a result, *non-subscriber revenues*, from sources such as advertising and home shopping channels, would be excluded from the franchise fee revenue base. That would represent anywhere from a 10% to 15% reduction in the franchise fees that local governments currently receive under the Cable Act. And non-subscriber revenues – especially advertising revenues – are one of the fastest growing revenue streams in the current cable franchise fee revenue base. In communities in which the local government contributes a portion of its franchise fee revenues to fund PEG Access operations, the reduced franchise fees would result in a substantial reduction in the funds that PEG Access centers currently receive from cable franchise fees.

The combined elimination of PEG grants and the substantial reduction of franchise fee revenue available for PEG use would result in a funding reduction for PEG Access that would be nothing short of catastrophic for many, if not most, PEG Access centers across the nation.

**III. PEG CAPACITY, IF TIED PERMANENTLY TO CURRENT LEVELS, WOULD DEPRIVE COMMUNITIES OF THE ABILITY TO ADAPT TO CHANGING, AND OFTEN GROWING, COMMUNITY NEEDS.**

Under the Cable Act, the number of channels set aside for PEG use is determined individually by each local community based on its particular PEG needs and interests. Perhaps

more importantly for the discussion here, the current Cable Act allows local communities, through the cable franchise renewal process, to reassess their PEG needs periodically, and to increase the channel capacity set aside for PEG where demand warrants.

As you might expect, the number of PEG channels set aside varies widely from community to community. This is precisely the sort of local self-determination and flexibility that one would expect – and that should be cherished – if the localism that PEG programming embodies is to survive. Some proposed bills, however, would short-circuit this process, capping PEG Access capacity at, or even below, current levels. This would mean that local communities would be locked into current PEG capacity limits – limits that may have been originally set by a franchise drafted even before the 1984 Cable Act.

There is no reason to suppose that PEG capacity needs are static. In fact, those needs typically grow over time, as the local community's interest in PEG programming grows, and the volume of PEG programming grows. Experience shows that system capacity has grown parallel to this need.

**Technical Comparability** PEG bandwidth provided in exchange for PROW use should to be handled on par with that of the highest commercial user, including that of the communications service provider. Municipal users must be allowed to make any technical use of PEG bandwidth they find useful and consistent with the capabilities of the system.

Municipal users of bandwidth provided in exchange for PROW must be allowed equal access to electronic promotions and customer portals, such as menus or hyperlinks, and to interactive switching as other users, including the service provider. Any type of privileging of programmer access to customers clearly devalues the municipal bandwidth.

#### **IV. RELATED GENERAL PRINCIPLES**

**Ease of Negotiation for New Entrants** The fastest available means of entry is for new entrants to adopt agreements equivalent to those of the incumbent provider. Manhattan, New York where I managed the Public Access facility is easily one of the most complex negotiating environments in the nation. There, RCN and the City worked out an OVS contract to mirror the existing Time Warner franchise in about nine months—including negotiation of equivalencies where duplicate obligations would have been redundant. This is but one of many instances demonstrating that new entrants can quickly enter existing markets if they are willing to match incumbent provider obligations.

**Local Authority** The municipalities should be free to use PROW fees as they feel appropriate, though some fees may be designated for communications needs. PEG operations are inexorably bound to the municipal owner of the PROW. The municipality should have the authority to determine how those needs are to be met with the resources available.

**Local Accountability** Audits and payments should remain at the municipal level.

**Local Enforcement** Regulatory authority for protecting PEG should be a function of the municipality, as should resolution of consumer complaints. We believe that the municipality should remain the first level of resolution and enforcement of PEG concerns. Local PEG centers are not adequately resourced to maintain a balanced relationship with large, national corporations.

**Local Design** Municipalities have the responsibility to design their use of communications system as suits the needs of local citizens.

**Net Neutrality** Alliance members provide training and equipment not only in television production, but are often providers of first contact for new communications tools and methods.

Access centers across the country were among the first to share the potentials of the internet with community organizations, providing both computer labs and connectivity. Access centers were the first to stream channels full-time. Similarly, PEG centers are providing exposure to and the skills and equipment needed for communities to use newer technologies such as peer-networking, video-blogging and podcasting. Our members have a direct interest in networks remaining neutral and open. Such openness not only assures a vibrant community conversation, but leaves room for the thousands of small entrepreneurs whose creativity forms the basis of American innovation.

**Technical Neutrality** The Alliance hopes that any new legislation will be technologically neutral. We would like to see all forms of video delivery located in the PROW subject to the same or equivalent public obligations. If they are not, then legislation will encourage development of technology based on diminishing public obligation rather than competition and innovation. This would launch a race to the bottom which would both harm the public interest and skew development.

In addition, the Alliance can foresee a future in which video services could potentially migrate to the “info-data” section of the pipeline. The physical use of the PROW would not be changed. The delivery to the consumer would likely appear to be the same. However, the bandwidth and fees provided in exchange for use of the PROW would be diminished. Proposed legislation should be carefully constructed to avoid providing incentives which artificially interfere with market innovation.

**Citizenship and Access to Broadband Communications** As citizenship, education, commerce, government services and community become more intertwined with access to communications services, the Alliance upholds the need to make sure that all of us have access

to those services. We don't think that all homes will have or want the same services. We do, however, believe that any new legislation should anticipate inevitable market imbalances. Any new legislation should have tests for identifying those imbalances and concrete methods to remedy any resultant discrimination. To the degree that a community or section of a community is "unreachable", the value of all of those working to provide PEG access is diminished. It is imperative for all people to have at least the opportunity to participate in the coming world of electronic democracy.

## **CONCLUSION**

Across the nation, PEG Access centers put television in the hands of the people, not as passive consumers, but as speakers and information providers—as citizens and other active participants in our society.

The public good and good business are not terms of contradiction. We ask that as this nation strikes out into this brave new world of competition and creativity, of wealth and opportunity, that you take the time to preserve the only truly genuine form of localism and diversity in the television medium—Public, Educational and Governmental Access. We ask that any legislation preserve the essential role that only local governments can fill. We ask that you recognize PEG as a central means of preserving the rich tapestry of local character even as these changes move us toward a homogenized national identity.

What we ask of you is not asked for the purpose of our own enrichment. We ask out of love for a society and people that can be a beacon of freedom for all the people who will come after us. We ask that you include us active participants in the many discussions to come in the drafting of this legislation. The Alliance looks forward to working with you to create legislation

that honors the founding principals of democracy by preserving a balanced communications environment for all people.

On behalf of communities across the nation, we thank you for the opportunity to speak to you today. I would be happy to answer any questions you may have.

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