



**TOWN OF BELMONT**  
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VIA ELECTRONIC FILING

November 14, 2018

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, District of Columbia 20554

RE: MB Docket No.05-311. Second Further Notice of Proposed Rulemaking  
Implementation of Section 621 (a) (1) of the Cable Communications Policy Act of 1984 as Amended by the  
Cable Television Consumer Protection and Competition Act of 1992.

Dear Ms. Dortch,

The Town of Belmont, Massachusetts strongly opposed to the Second Further Notice of Proposed Rulemaking (SFNPRM), which proposes to allow companies to deduct the fair market value of a wide range of public benefits from their franchise fee obligations, namely public, educational, and government (PEG) channel capacity and transmission and other in-kind courtesy service provisions found within the City's cable franchise agreements.

In the Town of Belmont, our local PEG access TV channels, operated by Belmont Media Center offer live and repeat broadcasts of Board of Selectmen meetings, but also for the Warrant Committee, School Committee, Planning Board, Zoning Board of Appeals, High School Building Committee, Municipal Light Board, Information Technology Advisory Committee, Town Meeting, other public meetings and Town/School public events & community forums.

These local cablecasts allow the Town to conduct business in the open and offer critical access to public information and opportunities for resident engagement that is vital for effective & transparent local governance.

The "fair market value" of such in-kind services will be extremely difficult to ascertain and the proposed Rulemaking leaves this determination solely within the cable provider's discretion. This ambiguity could potentially result in costly litigation between cable operators and local governments, with a detrimental impact on taxpayers. Beyond the potential legal costs, the SFNPRM threatens to grossly limit or entirely eliminate public, educational, and government access channels, all meant to better inform and empower the public.

As proposed, the SFNPRM's broad definition of all "cable-related, in-kind contributions" other than PEG capital costs and build-out requirements could be interpreted as "franchise fees," which could result in:

- Cable companies no longer paying the typical five percent franchise fees permitted by federal law.
- Cable companies using local rights-of-way for any purpose, regardless of the terms of the franchise agreement, and avoiding paying their fair compensation to the local government for the use of funded assets in the rights-of-way.
- Significant reductions in cable franchise fees, depending on how the "fair market" value for PEG capacity and transmission is calculated within a given jurisdiction.

This proposed change would result in PEG programming being drastically reduced, if not eliminated altogether in most jurisdictions.

Fair and appropriate use of the public right-of-way is the fundamental purpose for the imposition of cable franchise fees and other reasonable conditions whose purpose is to preserve the unique character of each community. It is important to note that the franchise fee is a separate pass through fee that is paid solely by the cable customer, and allowing cable providers to retain all or a portion of this fee for services that they negotiated in good faith to provide as part of their cable franchise only hurts our residents and our ability to govern.

But it is our residents that stand to lose the most in terms of the public benefits they receive.

More troubling however; is that the proposed SFNPRM seeks to indirectly weaken the Communications Act of 1984, without taking a broad look at the underlying principle of the federal statute enshrined within; which created the legislative and funding framework that today still supports hundreds of vital PEG access TV channels across the country – who serve the hyper-local electronic communications needs of millions of ordinary citizens by offering access to non-commercial, publicly accessible channels for free speech, education and local governance, and which are not now, nor ever have been subject to illegal and hidden interference by foreign governments or large commercial entities seeking to unduly influence the electoral process or public policy debates.

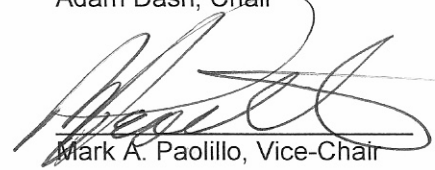
The Board of Selectmen of the Town of Belmont, Massachusetts encourages the FCC to focus its attention on opportunities for cable operators to improve their services, help close the digital divide, and expand deployment to rural and lower income communities.

The Town of Belmont strongly advocates for efforts that enhance local control of resources, programs and tools that allow the City to address the needs and concerns of its residents, and opposes any efforts that preempt local authority, such as the SFNPRM. For these reasons, the Town of Belmont OPPOSES the SFNPRM and respectfully requests that that the FCC reject the deterioration of PEG services and fair use of the public right-of-way.

Belmont Board of Selectmen



Adam Dash, Chair



Mark A. Paolillo, Vice-Chair



Thomas Capufo, Selectman