

VERMONT ACCESS NETWORK

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MEMO TO: Chair Emilie Kornheiser + House Ways and Means Committee

FROM: Lauren-Glenn Davitian, Public Policy Director, CCTV Center for Media + Democracy, davitian@cctv.org, 802.777.7542

RE: H. 657 Chapter 88A Community Media Public Benefit Fund - Draft 1.2

My name is Lauren-Glenn Davitian and I am the founding Executive Director of CCTV Center for Media + Democracy, now serving as CCTV's Public Policy Director and working on behalf of Vermont's 24 community media centers (also known as access management organizations "AMOs") which operate as Vermont Access Network ("VAN").

VAN is a statewide nonprofit organization that represents its members in matters of mutual concern, including the effective operation and advancement of Public, Educational and Government (PEG) access services throughout the State. Please see: <https://vermontaccess.net/>

Community Media Public Benefit Bill

Thank you for the opportunity to testify on H. 657 Chapter 88A Draft 1.2 which would establish a new *Community Media Public Benefit Fund*, funded by communications service providers in the State, to ensure equitable and sustainable financial support for local public, educational, and government (PEG) access services in Vermont.

Vermont's 24 community media centers currently receive approximately \$8 million from Vermont's cable "franchise fee" (5% for operating and .05% +/- for capital) paid by cable subscribers. Due to the steady decline of cable subscriptions in Vermont and increasing labor, equipment and other costs, the gap between community media revenue and expenses is growing.

Vermont AMO's work to address this gap through revenue diversification (fees for service, grants, philanthropy, membership, underwriting) including requests for

bridge funding from the Vermont Legislature.

The Legislature recognizes both the value of community media and the threat of declining cable revenue for this “essential service”. Through Covid Relief Funds (CRF) and one time general fund allocations between 2020-2023, Vermont AMOs have received support to cover the funding gap, totaling \$2.4M.

VAN’s goal, supported by many members of the Legislature, is to create a long term solution that does not rely on the state’s General Fund. The Community Media Public Benefit Fund provides a new funding stream that addresses the AMO revenue gap as video subscribers switch out their cable subscriptions for the internet.

Legal Foundations

As of the passage of the 1984 Cable Act (Title 47 U.S.C. § 521 et seq.), the Vermont Public Utility Commission (PUC) was designated as the state’s cable “franchising authority” and developed Rule 8.000 to specify the conditions for cable operators to obtain an 11 year Certificate of Public Good and do business in Vermont.

These CPG conditions include the public benefits of PEG access channels, capacity and funding.

Over the past 40 years, communities across the state have built an extensive network of PEG channels and community media services based on concrete demonstrations of “community needs and interests” during multiple PUC regulatory proceedings.

Community Media is An Essential Service

Today, Vermont’s 24 community media centers build community and promote democracy. These accessible local institutions function as local media production and education centers, a combination of town hall, local newspaper, town library, and Speaker’s Corner.

Vermont’s AMOs were recognized by the State of Vermont as an “essential service” during the COVID pandemic because of the role they played in getting public meetings online and distributing emergency information. In addition, 24 community media centers:

- Operate 80 PEG channels, employ nearly 100 people in dozens of communities across Vermont;
- Produce more than 18,000 hours of staff and volunteer generated TV and radio each year (including live open government public meetings, election forums and results, education access, community events, sports, cultural exchange, media education and the programs on topics from race to religion);
- Maintain extensive video archives that play an important role in the preservation of local identity; and,
- Provide unique non-commercial and community controlled resources—unlike commercial TV channels or today’s social media platforms (e.g., YouTube, Facebook, TikTok).

Trends: Declining Cable Revenue + Increasing Internet Usage

As consumers steadily cancel their cable subscriptions in favor of internet-based entertainment and news sources, funding for community media is declining.

The cable TV subscriber trends are clear. Forbes Magazine recently reported:

According to Nielsen, cable penetration reached its high-water mark in May 2011 when 90.7% of all TV households (105.1 million) had subscribed to cable television. Fast forward to September 2023, Nielsen counts 75.3 million multi-channel households accounting for 60.8% of all TV homes.

...by 2027, the number of U.S households with a cable subscription will fall below 50 million with household penetration at only 38%.¹

This trend plays out at the local level and directly impacts the budgets of community media centers. For example: in Comcast’s Burlington area service

¹ “With Cord-Cutting, Cable TV Industry Is Facing Financial Challenges”, Brad Adgate, 10 October 2023. <https://www.forbes.com/sites/bradadgate/2023/10/10/with-cord-cutting-cable-tv-industry-is-facing-financial-challenges/?sh=357e2d09756c>

territory there's been a 19% decline in quarterly revenue between September 30th 2016 and 2023.

Quarter Ending	Comcast Gross Revenue / Green Mountain Territory for the Quarter ending 9/30	Decline
9/30/16	\$6,758,532.48	
9/30/23	\$5,475,244.00	-19%

At Burlington Telecom, PEG support for Burlington's AMOs declined 28% over the same period.

BT PEG Support (Annual)				
	Operating	Capital	Total PEG	Decline
2016	\$33,706	\$7,802	\$41,508	
2023	\$22,971	\$6,919	\$29,890	-28%

While cable viewership declines, Vermont's community media content is accessed by increasing numbers of internet viewers, including people within and outside of traditional cable "territories".

In addition to cable TV channels, AMOs deliver TV on websites, YouTube, apps available through Apple TV, Roku, FireTV and Google Play. While cable providers will not share viewership statistics, Vermont's AMOs can easily track the growth in internet usage.

Here is a quick look at Town Meeting TV's YouTube viewership between 2016-2023:

TOWN MEETING TV YOUTUBE VIEWS + SUBSCRIBERS 2016 - 2023

Year	YouTube Views	New Subscribers	Total Subscribers
2023	276,593	1,592	4,941
2022	141,977	1,300	3,349
2021	204,013	833	2049
2020	562,261	436	1216

2019	262,867	381	780
2018	72,067	256	399
2017	22,492	102	143
2016	18,938	41	41

VAN Seeks a “Level Playing Field” for Communications Providers

The steady decline of cable revenue is a long standing concern because it is an integral part of PEG’s funding structure and *there is no corollary public benefit required of internet providers.*

Despite the fact that the same fiber optic cables carry cable AND internet signals, these technologies are regulated differently. The state of Vermont must attend to certain rules created by Congress and the FCC as its seeks to modernize its telecommunications tax structure and accrue new public benefits.

The [“PEG Study”](#)², commissioned by the Vermont Legislature in 2020 outlined legal ways for the Legislature to modernize its telecommunications tax structure, including the reform of funding for AMOs. One of the key recommendations, a pole attachment charge, is spelled out in in H. 657 Section 88A v. 1.2.

The Community Media Public Benefit Fund recognizes that Vermont AMO serve both cable and internet subscribers, no longer confined to cable service territories. The bill will establish a reliable source of funding using a policy mechanism within the Legislature’s purview.

Contributors to the Community Media Public Benefit Fund

H. 657 Chapter 88A v. 1.2 would impose a charge on all companies that deliver commercial voice, cable, internet, and wireless services to Vermont homes and businesses. The charge is an excise tax on these companies’ physical

² “Analysis of the Financial Viability for Public, Educational and Government Access Television in Vermont”, per the requirements of Act 137, Section 19 of the 2020 Session of the Vermont General Assembly. Act 137 required the Agency to, “retain a consultant to review the current business model for Vermont Public, Educational, and Governmental Access (PEG) television channels and provide recommendations concerning how to ensure the future financial stability and viability of PEG channels.”

<https://legislature.vermont.gov/assets/Legislative-Reports/Report-2021-02-07.docx.pdf>

attachments to utility poles installed throughout the State. This includes poles in the public rights-of-way and on private property, but does not include wireless macro towers. Vermont's municipal networks, including communications union districts (or CUDs) would be exempt.

Communications service providers would pay this charge to the Vermont Department of Taxes by July 1st of each year based on every pole attachment they attach to on April 1st of that year.

The PEG Study estimated 440,000 pole attachments (although we think this requires further verification). The proposed rate is \$15/ pole which could yield as much as \$6.6 million for community media centers as cable revenue declines.

Cable companies would be permitted to deduct from the pole attachment charge amounts paid to AMO under the current franchise fee funding mechanism.

Fund Collection + Distribution

The revenue would be collected by the Vermont Department of Taxes and deposited into a special fund known as the Community Media Public Benefit Fund. Each year, the money from the Fund would be appropriated to the Vermont Secretary of State, which would provide an annual grant for the operational costs of AMOs. The grants would be administered by Vermont Access Network ("VAN"). The criteria for the distribution of the funds will be based on the relative decline in cable revenue and the budget requirements of the AMOs.

What about Other States?

Because Congress has not acted to update the public benefit structure, and the cable regulatory framework differs across the US, different states are forging their own solution. There are a few active pieces of legislation in the US:

Maine - LD 1967 **An Act to support Municipal Franchise Agreements** is making its way through the Legislature. The act requires all video service providers with facilities in the public right-of-way have an agreement with local municipalities, and that transmission requirements on Maine law be paid for by video service providers. The act also ensures that providers carry PEG channels regardless of their technical infrastructure. <https://legiscan.com/ME/bill/LD1967/2023>

New York - Unlike Vermont, New York does not yet collect a streaming tax. **The Community Media Reinvestment Act (S 2581/ A 5900)** establishes a video streaming and satellite excise tax equal to a five percent franchise fee, and distributes the funds to a statewide fund to be distributed on a 20/40/40 percent split between the State, Municipalities and Community Media organizations. Funds in communities with no organization would be designated to the NY Council of the Arts for disbursement to new organizations. Cable revenues would be exempt from the tax.

<https://www.nysenate.gov/legislation/bills/2023/S2581>

Massachusetts - Massachusetts supports over 230 community television operations through franchise fee support. To counter diminishing franchise fee revenue, **H 74/S 34 An Act to modernize funding for community media programming** extends a five percent fee to streaming services with facilities in the Public Right of Way and distributes revenues to the State, Municipalities and Community Media organizations on a 20/40/40 percent split.

<https://malegislature.gov/Bills/193/H74/>

Thank you for your consideration.