

Amy Klobuchar

U.S. Senator for Minnesota

Klobuchar, Smith Help Introduce Legislation to Protect Community Television

January 23, 2020

WASHINGTON - This week, U.S. Senators Amy Klobuchar (D-MN) and Tina Smith (D-MN) helped introduce the *Protecting Community Television Act*, which would ensure that community television operations continue to receive the resources they need to educate and inform viewers in the cities and towns where they operate.

Currently, local governments are permitted to require—as part of cable franchise agreements—that cable companies meet demonstrated community needs by providing in-kind contributions that benefit schools, public safety buildings, as well as public, educational, and government (PEG) channels, also known as community television stations. However, last year the Federal Communications Commission (FCC) voted to permit cable companies to assign a value to these contributions and then subtract that amount from the franchise fees the cable operator pays the local community. As a result, local governments will have to decide between supporting PEG stations in cable franchise agreements and supporting other important services for critical community institutions like schools and libraries. The *Protecting Community Television Act* would clarify that the franchise fees that cable companies provide local governments only include monetary assessments, not in-kind contributions.

“We must protect community television stations that give voice to important local issues, leaders and stories that may not otherwise be heard,” Klobuchar said. **“Thomas Jefferson wrote that the first objective of our democracy should be to leave open all avenues to the truth and that the most effective way of doing this is through freedom of the press. I am proud to support the Protecting Community Television Act as we continue working to ensure that local television stations receive the resources they need to inform and educate our communities.”**

“It is so important for local voices to be heard, and for the federal government to support the community television stations who lift up these voices in Minnesota and

across the country,” Smith said. **“We’re seeing more and more media consolidation, and it’s vital that we stand up for local media. Communities deserve lawmakers who will look out for them, and that’s what we’re doing through this legislation.”**

“The League of Minnesota Cities thanks Senators Smith and Klobuchar for their ongoing support for local authority and protecting local media. The Cable Act was passed by Congress to ensure that cable providers meet community needs and fairly compensate cities for the use of the public right of way to deliver their service. The *Protecting Community Television Act* upholds that commitment and protects community programming from FCC overreach by clarifying that community benefits negotiated between the city and cable companies cannot be deducted from the franchise fees paid to the city,” **said Dave Unmacht, Executive Director at the League of Minnesota Cities.**

You can access text of the legislation [here](#). The bill is supported by the League of Minnesota Cities, the National Association of Counties, the National League of Cities, United States Conference of Mayors, the National Association of Telecommunications Officers and Advisors, Alliance for Community Media, MassAccess, TeleCommUnity, and Texas Municipal League.

There are more than 1,500 public, educational, and governmental studios/operations and an estimated 3,000 PEG channels in America. Religious programming represents 30 percent of local access programming. Tens of thousands of hours of programming is produced by veterans, seniors, the disabled and ethnic, minority and second language groups.

The *Protecting Community Television Act*—led by Senator Edward J. Markey (D-Mass.)—is also supported by Sens. Tammy Baldwin (D-Wisc.), Ben Cardin (D-Md.), Chris Van Hollen (D-Md.), Bernie Sanders (I-Vt.), Chris Murphy (D-Conn.), Maggie Hassan (D-N.H.), Jeff Merkley (D-Ore.), Jeanne Shaheen (D-N.H.), Richard Blumenthal (D-Conn.), Ron Wyden (D-Ore.), Kirsten Gillibrand (D-N.Y.), Marie Hirono (D-Hawaii), and Elizabeth Warren (D-Mass.).

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New FCC rule threatens funding for community TV programming

Bill in Congress would protect funding for vital local programs

By **Briana Bierschbach** (<http://www.startribune.com/briana-bierschbach/566938881/>) Star Tribune staff

FEBRUARY 18, 2020 — 12:05AM

It was just before 2 p.m. on a recent afternoon and there, in a nondescript building in an industrial area of Brooklyn Park, Shannon Slatton was ready to go live.

Standing on a studio set at CCX Media, a community television station with an exclusive focus on nine cities in the northwestern suburbs of the Twin Cities, she used a screen in front of her to quickly fix a single hair that was out of place before launching into the top story of the day: A Robbinsdale man was charged after he allegedly tampered with the oxygen supply to patients at a hospital. The camera then moved over to reporter Jay Wilcox, who had results from a recent state Nordic ski meet, occasionally cutting to interviews with high school athletes.

It was the kind of hyperlocal take that is at the core of public access television. Funded by local governments through an annual fee from private cable companies as right of way for using public property for cable, they cover topics ranging from high school sports to school board and city council meetings. But after nearly four decades on the air, CCX and other community television stations across the country say that funding source is being threatened by a new interpretation of law by the Federal Communications Commission (FCC).

The 1984 Cable Communications Policy Act paved the way for local governments to collect up to 5% of gross revenue of cable services in their area — known as franchise fees — to dedicate toward public access programming.

But in August, the FCC said that, under its interpretation of the law, a cable company can place a market value on any in-kind contributions that it also contributes to a community, things such as free cable connections in schools, libraries or government buildings, or service discounts for seniors or low-income families. Now, those in-kind contributions can be counted against the total franchise fee they pay governments.

The move is part of broader effort from the FCC to get the same cable companies to expand broadband access in rural communities by cutting back on regulations.

“Every dollar paid in excessive fees is a dollar that by definition cannot and will not be invested in upgrading and expanding networks,” said FCC Chairman Ajit Pai when the change passed the FCC last year. The commission did not provide further comment for this story.

But opponents of the FCC’s interpretation argue that in some communities, the new rule could significantly reduce franchise fees, forcing cities to choose between public programming or things like snowplows or fixing potholes.

Terry Hartikka, station manager at Mesabi Community TV for the past two decades, said they cover more than a half-dozen Iron Range communities that wouldn’t otherwise get much attention. Even reporters from local newspapers rely on their broadcasts to do some of their coverage, he said.

“Seven city councils now, four schools’ school board meetings, concerts, graduations, town hall meetings,” he said. “A lot of the schools and commissions didn’t want us when I decided to start filming them. They said ‘We’re going to quit if you’re going to do that.’ But now they appreciate it because it’s a good way for them to get the word out.”

GALLERY

GRID

1/9



Companies pay local governments for right of way to use public property for cable. For the last four CCX Media News Director Shannon Slatton was on set during a live news broadcast Friday. The FCC said cable companies can count in-kind contributions toward that fee, including free or discounted cable to veterans or fiber optic networks they've built in the community. That change could threaten public TV stations in small and suburban communities across the state where they broadcast hundreds of local city council, school board and county meetings that are otherwise ignored. Tina Smith and Amy Klobuchar have signed on to a bill to

He thinks the communities have come to value the public-access programming so much that they'd look to cut other services if franchise fees were reduced. "I think they'd sharpen their pencil a little bit more on their budget," he said.

Today there are more than 1,500 community television stations in the country operating more than 3,000 channels. Religious programming and high school sports are big draws, and public-access television has increasingly become a way for ethnic and racial minorities and immigrant groups to create content in their communities. The Rural Broadband Association estimates cable companies pay \$3 billion a year in franchise fees to local governments.

Dozens of cities across the country have signed on to a lawsuit asking the federal appeals courts to undo the FCC order, and there's a bill moving through Congress that would clarify that franchise fees must be monetary, not in-kind contributions.

The bill has the backing of U.S. Rep. Betty McCollum, D-Minn., and Minnesota's two Democratic U.S. senators, Amy Klobuchar and Tina Smith.

"In a world where we have increasing media consolidation and declining sources of local news, these government and public education channels are increasingly important. Imagine you live in a community where there are no more local newspapers, how are you going to know what's going on?" said Smith. "We should not be placing our thumbs on the scale for the cable companies."

Mike Johnson, executive director of CCX Media, said the station has covered more than 14,000 public meetings since it was founded in 1982. Its local focus is by design: "We have stories to tell and nobody's telling them," Johnson said. "Community newspapers are dying in our communities, and this is our way for us to provide communications daily."

The change comes at an already difficult time for public programming, as more people cut cable cords and get most of their content online or through streaming services. CCX Media has started putting most content online and pushing people to it through Facebook and other social media outreach sites.

But for now, the franchise fees are how they survive, and Johnson is worried more cuts are yet to come.

"That's the double whammy here," he said. "If they allow that to go, what's the next thing they chip away at?"

address the issue and the change is being challenged in federal court. CCX Media community TV in Brooklyn Park, the station does a live broadcast every day at 2p.m. Shots of reporters doing live shots, people working behind the control rooms, etc. ORG XMIT: MIN2002151544341268

Briana Bierschbach is a politics and government reporter for the Star Tribune.

briana.bierschbach@startribune.com

bbierschbach



January 16, 2020

The Honorable Angie Craig
United States House of Representatives
1523 Longworth House Office Building
Washington, DC 20515

Dear Representative Craig,

As the President of the League of Minnesota Cities, I am writing on behalf of our 833 member cities to express our support for the Protecting Community Television Act introduced by Congresswoman Anna Eshoo (D-CA) and to urge you to sign onto the bill as a co-sponsor. The bill protects critical funding for public, education, or governmental (PEG) stations which were jeopardized by the Federal Communications Commission's (FCC) reinterpretation of the Cable Act outlined in its Section 621 Report and Order released in August 2019. Without the adoption of the bill, cities will see a decrease in franchise fees and may be forced to abandon PEG stations.

The FCC's reinterpretation of the Cable Act allows cable operators to deduct the value of "in-kind" obligations negotiated between them and cities against the franchise fees they have agreed to pay. This interpretation threatens city budgets and could significantly reduce franchise fees, which may force cities to eliminate public access programming entirely. In-kind obligations that are subject to these deductions include complimentary or discounted cable connections to schools, libraries and government buildings as well as negotiated discounts for veterans, seniors or low-income families. Moreover, the FCC has stated that within the year it may extend the offset to include the channel capacity needed to provide PEG programming.

Congress articulated a clear difference between monetary franchise fees and negotiated in-kind contributions in the Cable Act, and this distinction must be upheld. The Protecting Community Television Act upholds this longstanding distinction and reverses the FCC's attempt to treat non-monetary in-kind franchise obligations as franchise fees by clarifying in law that franchise fees are limited to cash payments and do not include other services negotiated between a cable operator and a city. This legislation is critical to ensuring the preservation PEG programming and the ability for cities to receive fair compensation for commercial use of public rights of way.

If you or your staff have any questions about the Protecting Community Television Act and how it would benefit Minnesota cities, please contact Daniel Lightfoot at dlightfoot@lmc.org or 651-281-1295.

Thank you for the work that you do on behalf of all Minnesotans.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Mornson", with a long, sweeping underline.

Mike Mornson
President, League of Minnesota Cities



January 16, 2020

The Honorable Tom Emmer
United States House of Representatives
315 Cannon House Office Building
Washington, DC 20515

Dear Congressman Emmer,

As the President of the League of Minnesota Cities, I am writing on behalf of our 833 member cities to express our support for the Protecting Community Television Act introduced by Congresswoman Anna Eshoo (D-CA) and to urge you to sign onto the bill as a co-sponsor. The bill protects critical funding for public, education, or governmental (PEG) stations which were jeopardized by the Federal Communications Commission's (FCC) reinterpretation of the Cable Act outlined in its Section 621 Report and Order released in August 2019. Without the adoption of the bill, cities will see a decrease in franchise fees and may be forced to abandon PEG stations.

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Sincerely,

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Mike Mornson
President, League of Minnesota Cities

News: NATOA Endorses the Protecting Community Television Act

1 message

Tonya Rideout <info@natoa.org>
Reply-To: info@natoa.org
To: mike@bradleylawmn.com

Tue, Jan 21, 2020 at 1:11 PM



NATOA ENDORSES THE PROTECTING COMMUNITY TELEVISION ACT

Contact: Nancy Werner, (703) 519-8035

FOR IMMEDIATE RELEASE -- January 21, 2020 -- The National Association of Telecommunications Officers and Advisors (NATOA) applauds Senator Markey and Representative Eshoo for introducing the [Protecting Community Television Act](#), which will restore the long-standing protections in federal law designed to ensure that local communities, especially local media, are not trampled by cable operators.

When Congress passed the Cable Act in 1984, among its stated purposes for the legislation were to ensure that cable companies were "responsive to the needs and interests of the local community" and "provide the widest possible diversity of information sources" to the public. In August 2019, the Federal Communications Commission voted to reinterpret the Act to undermine both of these purposes by allowing cable companies to assign a value to commitments they made in negotiated cable franchise agreements-including support for local programming and cable services to schools and libraries-and then deduct that value from their franchise fees, which is the rent they pay municipalities for use of public property. The result of this new interpretation of a decades-old statute is to force local governments to choose whether to retain the community benefits and protections negotiated in the cable franchise or to reduce franchise fee payments, which support critical public services like police, fire and libraries.

NATOA enthusiastically endorsed the [Protecting Community Television Act](#), which is necessary to rein in the Commission's windfall to cable operators at the expense of local media and, ultimately, local taxpayers. We thank Senator Markey and Representative Eshoo, as well as the many co-sponsors of this legislation, for their efforts on behalf of local governments and local media.

NATOA, [3213 DUKE STREET, #695, ALEXANDRIA, VA 22314](#)

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116TH CONGRESS
2D SESSION

S. 3218

To amend the Communications Act of 1934 to modify the definition of franchise fee, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 2020

Mr. MARKEY (for himself, Ms. BALDWIN, Ms. SMITH, Mr. CARDIN, Mr. VAN HOLLEN, Mr. SANDERS, Mr. MURPHY, Ms. HASSAN, Mr. MERKLEY, Mrs. SHAHEEN, Mr. BLUMENTHAL, Mr. WYDEN, Mrs. GILLIBRAND, Ms. HIRONO, Ms. WARREN, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to modify the definition of franchise fee, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Community
5 Television Act”.

6 **SEC. 2. MODIFYING THE DEFINITION OF FRANCHISE FEE.**

7 Section 622(g)(1) of the Communications Act of
8 1934 (47 U.S.C. 542(g)(1)) is amended—

1 (1) by striking “includes” and inserting
2 “means”; and

3 (2) by inserting “other monetary” before “as-
4 assessment”.

○

116TH CONGRESS
2D SESSION

H. R. 5659

To amend the Communications Act of 1934 to modify the definition of franchise fee, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 2020

Ms. ESHOO (for herself, Mr. WELCH, Mr. MCGOVERN, Mr. NEAL, Mr. ENGEL, Mr. DEFAZIO, Mr. COX of California, Mr. HUFFMAN, Ms. SPEIER, Mr. SCHIFF, Ms. GABBARD, Ms. MENG, Mr. BLUMENAUER, Mr. SERRANO, Mr. LYNCH, Mr. RASKIN, Mr. TRONE, Ms. MCCOLLUM, Mr. PAPPAS, Ms. MOORE, Ms. KUSTER of New Hampshire, and Mrs. TRAHAN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to modify the definition of franchise fee, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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4 assessment”.

○

Sec. 542 Franchise fees

§542. Franchise fees

(a) Payment under terms of franchise

Subject to the limitation of subsection (b), any cable operator may be required under the terms of any franchise to pay a franchise fee.

(b) Amount of fees per annum

For any twelve-month period, the franchise fees paid by a cable operator with respect to any cable system shall not exceed 5 percent of such cable operator's gross revenues derived in such period from the operation of the cable system to provide cable services. For purposes of this section, the 12-month period shall be the 12-month period applicable under the franchise for accounting purposes. Nothing in this subsection shall prohibit a franchising authority and a cable operator from agreeing that franchise fees which lawfully could be collected for any such 12-month period shall be paid on a prepaid or deferred basis; except that the sum of the fees paid during the term of the franchise may not exceed the amount, including the time value of money, which would have lawfully been collected if such fees had been paid per annum.

(c) Itemization of subscriber bills

Each cable operator may identify, consistent with the regulations prescribed by the Commission pursuant to section 543 of this title, as a separate line item on each regular bill of each subscriber, each of the following:

- (1) The amount of the total bill assessed as a franchise fee and the identity of the franchising authority to which the fee is paid.
- (2) The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels.
- (3) The amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber.

(d) Court actions; reflection of costs in rate structures

In any court action under subsection (c), the franchising authority shall demonstrate that the rate structure reflects all costs of the franchise fees.

(e) Decreases passed through to subscribers

Any cable operator shall pass through to subscribers the amount of any decrease in a franchise fee.

(f) Itemization of franchise fee in bill

A cable operator may designate that portion of a subscriber's bill attributable to the franchise fee as a separate item on the bill.

(g) "Franchise fee" defined

For the purposes of this section—

(1) the term "franchise fee" includes 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;

(2) the term "franchise fee" does not include—

(A) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable subscribers);

(B) in the case of any franchise in effect on October 30, 1984, payments which are required by the franchise to be made by the cable operator during the term of such franchise for, or in support of the use of, public, educational, or governmental access facilities;

(C) in the case of any franchise granted after October 30, 1984, capital costs which are required by the franchise to be incurred by the cable operator for public, educational, or governmental access facilities;

(D) requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

(E) any fee imposed under title 17.

(h) Uncompensated services; taxes, fees and other assessments; limitation on fees

(1) Nothing in this chapter shall be construed to limit any authority of a franchising authority to impose a tax, fee, or other assessment of any kind on any person (other than a cable operator) with respect to cable service or other communications service provided by such person over a cable system for which charges are assessed to subscribers but not received by the cable operator.

(2) For any 12-month period, the fees paid by such person with respect to any such cable service or other communications service shall not exceed 5 percent of such person's gross revenues derived in such period from the provision of such service over the cable system.

(i) Regulatory authority of Federal agencies

Any Federal agency may not regulate the amount of the franchise fees paid by a cable operator, or regulate the use of funds derived from such fees, except as provided in this section.

(June 19, 1934, ch. 652, title VI, §622, as added Pub. L. 98–549, §2, Oct. 30, 1984, 98 Stat. 2787; amended Pub. L. 102–385, §14, Oct. 5, 1992, 106 Stat. 1489; Pub. L. 104–104, title III, §303(b), Feb. 8, 1996, 110 Stat. 125.)

References in Text

This chapter, referred to in subsec. (h)(1), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

Amendments

1996—Subsec. (b). Pub. L. 104–104 inserted "to provide cable services" before period at end of first sentence.

1992—Subsec. (c). Pub. L. 102–385 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "A cable operator may pass through to subscribers the amount of any increase in a franchise fee, unless the franchising authority demonstrates that the rate structure specified in the franchise reflects all costs of franchise fees and so notifies the cable operator in writing."

Effective Date of 1992 Amendment

Amendment by Pub. L. 102–385 effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102–385, set out as a note under section 325 of this title.

Effective Date

Section effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98–549, set out as a note under section 521 of this title.