



Community Access Preservation (CAP) Act

**Presentation to the Council Committee for
Emerging Technology and Telecommunications
October 28, 2009**

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CAP Act - H.R. 3745

- Community Access Preservation Act (CAP)
- Introduced by Rep. Tammy Baldwin (D-WI) on October 7, 2009
- Amends the Communications Act of 1934 to provide for carriage and display of Public, Educational, and Government (PEG) access channels
- Referred to Energy and Commerce Committee (Baldwin is member)



Background

- States have adopted laws which removed municipal cable tv franchising authority and moved to state level
 - Texas was the first state law effective September 1, 2005
 - Time Warner Cable municipal franchise was grandfathered until it expires in August of 2011
 - Grande Communications was able to opt out due to a provision in law
- Negative impact on PEG channels



CAP addresses 4 immediate issues facing PEG by:

- Allowing PEG fees to be used for any PEG-related purpose
- Requiring PEG channels to be carried in the same manner as local commercial channels
- Requiring the FCC to study the effect of state video franchise laws have had on PEG
- Making cable television-related laws and regulations applicable to all



1. Use of PEG funds

- Cable Act and a recent FCC decision: funds for PEG may NOT be used for operating expenses (facilities and equipment only)
- Throughout the country, communities are closing PEG facilities
- CAP Act removes restriction, allows PEG fees to be used for operations or capital
- Austin is faced with no operating funds for public access in August of 2011,



2. Discriminatory treatment

- Some operators no longer provide PEG in the same manner as local commercial channels
- Less accessible, lower quality, additional charges
- CAP Act requires carriage of PEG channels without additional charges, and on a par with local commercial channels



3. Study effect of state franchising

- CAP Act:
 - Directs FCC to investigate impact of state franchising on PEG and to issue recommendations to the CAP Act to preserve and advance localism and PEG's use of advanced communications systems
 - Requires cable operators to provide the greater of the support required under state laws, or the support historically provided for PEG



4. Technology-neutral cable laws and regulations

- New wire line delivery technologies different from traditional cable delivery
- Some operators claim that cable regulations may not apply to these
- CAP Act ensures that cable tv-related laws and regulations applicable to all landline video providers - “technologically neutral”



CAP Act & Texas law

- HR 3745 address two issues of particular interest in Texas:
 - 1. Use of PEG fees: Chapter 66 of the Utilities Code provides for 1% fee of gross revenues for PEG. Restricted use as “allowed by federal law” on “capital items,” otherwise providers count as part of the 5% franchise fee.
 - 2. Quality and Placement of PEG channels: Provided to and viewable by every subscriber without additional service or equipment charges.



City's support of legislation

- National associations (NATOA and ACM) are asking its members to adopt resolutions of support. Working with USCM, NLC, NACo.
- Committee endorse item from Council to adopt resolution supporting legislation at upcoming Council meeting (11/19 or 12/10)
- Work with Texas municipal groups (TML, TATO, TCCFUI)