



February 7, 2020

The Honorable Roger Wicker  
Chairman  
Committee on Commerce, Science & Transportation  
United States Senate

The Honorable Frank Pallone Jr.  
Chairman  
Committee on Energy & Commerce  
United States House of Representatives

Dear Chairmen Wicker and Pallone:

On behalf of National Taxpayers Union, the nation's oldest taxpayer advocacy organization, I write to express our concerns regarding recently introduced legislation, S. 3218 & H.R. 5659, the "Protecting Community Television Act." This misguided legislation would severely undermine the Cable Act, a bipartisan law that enacted a limit on how much local governments can charge cable operators.

As you are aware, in order to operate a service, cable companies must obtain a franchise agreement from local franchising authorities (LFA). As a condition to operate, LFAs are permitted to impose a fee of up to 5 percent on the gross revenues of cable operators from the operation of cable systems. Such a cap ensures local governments receive fair compensation for the use of public rights-of-way while preventing business and consumers from being burdened by excessive fees.

However, over the years a handful of communities have ignored the intent of the Cable Act and found creative ways to circumvent the franchise fee cap to boost their municipal coffers. In fact, a report by the FCC highlighted just some of the laughable requirements some companies have to meet in order to service customers, noting "the Commission cited the following as examples of in-kind contributions unrelated to the provision of cable services: traffic light control systems; a requirement to prepay \$1 million in franchise fees and to fund a \$50,000 scholarship; a \$13 million "wish list" in Tampa, Florida; a request for video hookup for a Christmas celebration and money for wildflower seeds in New York; and a request for fiber on traffic lights to monitor traffic in Virginia."

That same report notes that many new service providers are required to offer contributions that "are unrelated to the provision of cable services."

Thankfully, the FCC recently took action to clarify that the Congressionally established 5 percent cap on franchise fees must also include the value of in-kind contributions in their calculations. The FCC's important action will reduce barriers to entry to allow greater competition and innovation that will improve cable deployment. If localities want to require these unique features in their jurisdiction, that is their right, but these features should be assigned a monetary value that would be subtracted from revenues under the 5 percent cap. Requiring private businesses to offer unrelated services creates additional costs that are not just borne by companies deploying new networks, but are also passed along to consumers.

Taxpayers and consumers have a direct interest in this development, as taxes, fees and regulations create new burdens in the market that curb innovation. This not only makes it more difficult for more consumers to access video and voice services, but can ultimately increase monthly service bills, and halt the roll out of faster broadband services. Simply put, red tape and artificial costs threaten the ability of Americans to enjoy modern telecommunication services.

If S. 3218 or H.R. 5659 were to become law, it would severely undermine the recent positive changes implemented by the FCC. Its enactment would protect the coffers of local governments over the interests of consumers and businesses and we urge lawmakers to oppose the “Protecting Community Television Act.”

Sincerely,

Thomas Aiello  
Policy and Government Affairs Associate