

The Honorable Ted Stevens
Chairman,
Committee on Commerce, Science and Transportation United States Senate
SR-254 Russell Senate Office Bldg.
Washington, DC 20510

Dear Chairman Stevens:

As your committee moves to markup of S. 2686, the national associations representing most of America's local governments would like to formally comment on the legislation.

At the outset, we must commend your staff for working so diligently with us to craft legislation that maintains an appropriate local role in video franchising. The legislation (H.R.5252) recently passed in the U.S. House is seriously flawed in this regard and we are on record as opposing that legislation. We also do not support any other video franchising legislation that has been introduced in the Senate to date, nor any tax-related amendments.

We are not opposing what we understand to be your "Manager's Mark" to S.2686, although we feel it can still be improved.

While this bill is not one we would write in a perfect world, we believe a number of serious flaws in earlier drafts have been corrected to our satisfaction. We remain concerned that there is no "build-out" language in the bill, and we understand that matter may be a subject for an amendment during markup. However, your manager's mark has made substantial improvements over previous drafts of the bill, including clarifying the timeframe for action by local governments on new video franchises; it preserves local government control and authority to manage their rights-of-ways; ensuring that the courts, rather than the FCC, have jurisdiction over rights-of-way disputes; and providing attorney fees are the responsibility of each party in rights-of-way disputes.

The bill makes it clear that IPTV and interactive on demand services are included in the "video service" definition. The gross revenue definition is substantially improved, and the franchise fee audit language allows the local franchising authority to conduct the audits. These are significant improvements. The bill also protects certain state and local telecom taxes unrelated to video provisioning. The manager's mark also properly recognizes the need to include lump sum payments in calculating the per subscriber equivalent for PEG support as an alternative to the 1 percent of gross revenues PEG support fee. The redlining provisions in the bill are still troubling in that they are an "intent test" rather than an "effects test," but we believe that will be solved if a build-out amendment is added in markup.

For the record, outside the video franchising title, we also like what the bill does in Title I concerning public safety interoperability, and the language in Title V on municipal provisioning of broadband.

Getting to this point has been a long and arduous process, and your staff has given our associations unprecedented access, and time to hearing our concerns and working to correct the language in the bill. Their skill and professionalism should be duly noted. Mr. Chairman, we look forward to working with you and your staff during floor consideration of this measure.

NAME
POSITION