

NORTH METRO TELECOMMUNICATIONS COMMISSION MEETING

February 13, 2025
6:00 P.M.
200 Civic Heights Circle
Circle Pines, Minnesota

AGENDA

1. CALL TO ORDER/ROLL CALL
2. PUBLIC COMMENTS
3. CHANGES TO THE AGENDA
4. CONSENT AGENDA
 - a. Minutes of regular meeting of December 11, 2024 **pp. 2 - 4**
 - b. Minutes of Executive Committee meeting of February 5, 2025 **pp. 5 - 6**
 - c. Minutes of Operations Committee meetings of January - February, 2025 **pp. 7 - 9**
 - d. Approve January 2025 financial reports and bill lists
 - e. Reaffirm the North Metro Telecommunications Commission Code of Conduct **pp. 10 - 13**
5. REPORT OF INTERIM CO-EXECUTIVE DIRECTORS
 - a. February Miscellaneous Updates **pp. 14 - 15**
 - b. 4th Quarter Comcast Franchise and PEG Fee Reports **p. 16**
 - c. Fees Returned to Cities **pp. 17 - 18**
6. LEGAL COUNSEL REPORT
7. OLD BUSINESS
8. NEW BUSINESS
 - a. Nominations for 2025 Executive Committee **p. 19**
 - b. Executive Director Search Update by Patrick Antonen and Dan Buchholtz
 - c. Insurance Waiver **pp. 20 - 21**
9. RECOMMENDED READING **pp. 22 - 40**
10. COMMUNITY CALENDAR
 - a. Next Meeting Dates:
 - i) Operations Committee – March 4, 2025
 - ii) Executive Committee – June 11, 2025
 - iii) Cable Commission – June 18, 2025 at Spring Lake Park City Hall
11. ADJOURN

NORTH METRO TELECOMMUNICATIONS COMMISSION

UNAPPROVED MINUTES

Commission Meeting – December 18, 2024

CALL TO ORDER

Chair B. Goodboe-Bisschoff called the regular meeting of the North Metro Telecommunications Commission to order at 6:01 p.m.

ROLL CALL

Directors Present: Chris Massoglia; Blaine, D. Love; Centerville, Nici Dorner; Circle Pines, Brandon Winge; Lexington, Dale Stoesz; Lino Lakes, Barbara Goodboe-Bisschoff; Spring Lake Park

Directors Absent: Jesse Wilken; Ham Lake

Others Present: Eric Houston; Interim Co-Executive Director, Danika Peterson; Interim Co-Executive Director

PUBLIC COMMENT

There was no public comment.

CHANGES TO THE AGENDA

No changes were made to the agenda.

CONSENT AGENDA

The September 18, 2024, NMTC meeting minutes, the November 19, 2024, Workshop minutes, the December 11, 2024, Executive Committee meeting minutes, the October, November, and December 2024, Operations Committee meeting minutes, and the September, October, and November 2024 financial reports were approved as presented. **Motion for approval made by: D. Stoesz. Second: C. Massoglia. The motion was approved unanimously.**

REPORT OF INTERIM CO-EXECUTIVE DIRECTORS

E. Houston and D. Peterson reported on the following items:

- The North Metro TV News Team recorded 32 candidate interviews for election season. The interview videos were popular on social media, receiving 8,181 views in total.
- The NMTC applied for a Digital Equity Competitive Grant through the National Telecommunications and Information Administration. The total ask was \$5,091,04.08 in federal funds.
- NMTV staff met recently to discuss ways of streamlining city meeting recording procedures.
- Several members of the NMTV staff have attended seminars relating to web content accessibility, with the goal of being able to provide support to city staff in advance of new ADA requirements.
- On November 19, the NMTV News team acted quickly to interview Blaine Police following gunfire and arrests near the NMTV studios. The resulting video was very popular, receiving 5,000 online views in its first 24 hours. This was an excellent example of the successful station pivot to shortform, web based content.
- The North Metro TV Sports Team taped nine playoff games between October and November, covering all three of our area high schools. Winter coverage is planned for 20 different high school matchups, with all 20 games exclusively featuring our three area high schools playing each other.
- Comcast informed the Franchise Administrator of an increase in subscriber rates beginning January 1, 2025.
- The Commission received the third quarter gross revenue, franchise, and PEG fee reports and payments from Comcast. PEG fees remained within the expected range, but franchise fees were lower than expected. Overall, though, 2025 budget estimates remain in good shape.

OLD BUSINESS

- The Commission considered an ordinance extending the current Comcast Cable Franchise by five years.

MOTION: To approve and recommend the cable franchise extension for adoption by each of the member cities and for Interim Co-Executive Director Eric Houston accept the Ordinance Extension following adoption by the member cities. **Motion made by D. Stoesz. Second: C. Massoglia. The motion was approved unanimously.**

NEW BUSINESS

- The Commission discussed rescheduling the February 2025 Cable Commission meeting from February 19 to February 13

MOTION: To reschedule the February 2025 Cable Commission Meeting from February 19 to February 13, 2025. **Motion made by C. Massoglia. Second: D. Stoesz. The motion was approved unanimously.**

ADJOURN

The meeting was adjourned at 6:13 p.m. **Motion for approval made by: D. Stoesz. Second: C. Massoglia. The motion was approved unanimously.**

Nancy Golden; Secretary, NMTC

EXECUTIVE COMMITTEE MINUTES

Meeting of February 5, 2025

Executive Cmte. Present: Barbara Goodboe-Bisschoff; Spring Lake Park, Dale Stoesz; Lino Lakes, Chris Massoglia; Blaine

Absent:

Others Present: Eric Houston; Interim Co-ED, Danika Peterson; Interim Co-ED

CALL TO ORDER

The Chair called the meeting to order at 6:01 p.m.

APPROVAL OF MINUTES

A motion to approve the December 11, 2024, Executive Committee meeting minutes and the November 19, 2024, Cable Commission Workshop minutes was made by C. Massoglia. Second, D. Stoesz. Motion passed unanimously.

EXECUTIVE DIRECTOR / OPERATIONS COMMITTEE REPORT

- The NMTV News team created a video about new developments along 105th Avenue. The video was very popular, earning 4,000 views in four days.
- Kenton Kipp, Ted Leroux, and the NMTV Sports team filmed the 2024 Minnesota High School All-Star Football Game at US Bank Stadium. This was a “for hire” event, earning the station \$6,000.
- North Metro TV Sports are once again streaming for free on northmetrotv.com, YouTube, and Facebook. January sports attracted more than 2,500 online views.
- Municipal Producer Trevor Scholl worked with Lino Lakes staff to create a series of videos highlighting ways to stay in shape at the Rookery.
- NMTV debuted a new series called North Metro Now, which compiles all of the best stories from a given month. The series is designed to be aired on other community stations with a goal of expanding the reach of our member cities’ videos. North Metro Now is currently airing in 14 additional cities.
- The committee reviewed 4th quarter Comcast franchise and PEG fee reports.
- Staff distributed a table showing how the percentage of fee payments to the cities was determined and the division of the fee payment based on those percentages.

NEW BUSINESS

- The Interim Co-Executive Directors recommended rescheduling the June 2025 Executive Committee Meeting.

MOTION: To reschedule the June 2025 Executive Committee Meeting date from June 4, 2025, to June 12, 2025. **Motion made by D. Stoesz. Second: C. Massoglia. Motion passed unanimously.**

- The Committee discussed the status of the Commission’s agreement with the City of Fridley.

MOTION: To recommend to the Operations Committee that the Commission not extend the existing agreement past June 2025 and more aggressively pursue Fridley fully joining the JPA or increasing revenue from Fridley to \$100,000. **Motion made by C. Massoglia. Second: D. Stoesz. Motion passed unanimously.**

- The Committee reviewed the North Metro Telecommunications Commission Code of Conduct, which must be reaffirmed each year by the new Commission.

MOTION: To recommend that the Commission reapprove the Code of Conduct as presented and that the matter be placed in the consent agenda for the February 2025 Cable Commission meeting. **Motion made by C. Massoglia. Second: D. Stoesz. Motion passed unanimously.**

- Recommendations were discussed for members of the 2025 Executive Committee. Nancy Golden, Barbara Goodboe-Bisschoff, Chris Massoglia, and Dale Stoesz indicated willingness to serve.

MOTION: To recommend Chris Massoglia serve as Chair of the North Metro Telecommunications Commission for the year 2025. **Motion made by D. Stoesz. Second: C. Massoglia. The motion passed 2 – 1, with two Commissioners for and one against. Yea – C. Massoglia, D. Stoesz. Nay – B. Goodboe-Bisschoff.**

MOTION: To recommend Dale Stoesz serve as Vice Chair of the North Metro Telecommunications Commission for the year 2025. **Motion made by C. Massoglia. Second: D. Stoesz. The motion passed 2 – 1, with two Commissioners for and one against. Yea – C. Massoglia, D. Stoesz. Nay – B. Goodboe-Bisschoff.**

MOTION: To recommend Nancy Golden serve as Secretary of the North Metro Telecommunications Commission for the year 2025. **Motion made by C. Massoglia. Second: D. Stoesz. Motion passed unanimously.**

- Every year, as an administrative matter, the Commission has to decide whether or not to waive the statutory tort limits for insurance purposes. The decision determines the amount an individual would be able to recover on any claim to which the statutory tort limits apply. In the past, the Commission has opted to NOT WAIVE the monetary limits on municipal tort liability.

MOTION: To recommend that the Commission NOT WAIVE the monetary limits on municipal tort liability **Motion made by C. Massoglia. Second: D. Stoesz. Motion passed unanimously.**

ADJOURN

Motion to adjourn made by D. Stoesz. Second, C. Massoglia. Motion passed unanimously. The meeting was adjourned at 7:13 p.m.

**NORTH METRO TELECOMMUNICATIONS COMMISSION
APPROVED OPERATIONS COMMITTEE MEETING NOTES**

Tuesday, January 7, 2025

CALL TO ORDER

The meeting began at 11:08 a.m.

MEMBERS PRESENT

P. Antonen, D. Buchholtz (arrived at 11:25 a.m.), D. Pecchia, M. Statz, D. Webster, M. Wolfe

MEMBERS ABSENT

B. Petracek

OTHERS PRESENT

E. Houston, A. Lewis, D. Peterson

APPROVAL OF MEETING NOTES

The meeting notes of December 3, 2024, were approved by consensus.

EXECUTIVE DIRECTOR REPORT

- North Metro TV created a number of winter themed videos in December, including a visit to a Christmas tree farm, the opening of 22 ice rinks in Blaine, and the annual Heroes and Helpers holiday event.
- Kenton Kipp, Ted Leroux, and the NMTV Sports team filmed the 2024 Minnesota High School All-Star Football Game at US Bank Stadium. This was a “for hire” event, earning the station \$6,000.
- The NMTV News team created a video about new developments along 105th Avenue. The video was very popular, earning 4,000 views in four days.

OLD BUSINESS

- The committee discussed the ordinance extending the current Comcast Cable Franchise by five years.
- E. Houston and D. Peterson updated the committee on the status of the NTIA grant the Commission applied for. To date, there was no new information, but the Commission hopes for a reply this winter.

NEW BUSINESS

- The committee considered a municipal resolution supporting MACTA legislative efforts in 2025.
- The committee discussed the status of the Commission’s relationship with the City of Fridley.
- M. Wolfe informed the committee that the Commission may be discussed at a Blaine City Council Workshop Meeting scheduled for January 13, 2025.

ADJOURNMENT

The meeting was adjourned at 11:49 a.m. Motion to adjourn made by: M. Wolfe.
Second: P. Antonen. The motion was approved unanimously.

**NORTH METRO TELECOMMUNICATIONS COMMISSION
UNAPPROVED OPERATIONS COMMITTEE MEETING NOTES**

Tuesday, February 4, 2025

CALL TO ORDER

The meeting began at 10:58 a.m.

MEMBERS PRESENT

P. Antonen, D. Buchholtz, A. Lewis, D. Pecchia, D. Webster

MEMBERS ABSENT

B. Petracek, M. Wolfe

OTHERS PRESENT

B. Hayle, E. Houston, D. Peterson

APPROVAL OF MEETING NOTES

The meeting notes of January 7, 2025, were approved by consensus.

EXECUTIVE DIRECTOR REPORT

- North Metro TV Sports are once again streaming for free on northmetroTV.com, YouTube, and Facebook. January sports attracted more than 2,500 online views.
- Municipal Producer Trevor Scholl worked with Lino Lakes staff to create a series of videos highlighting ways to stay in shape at the Rookery.
- NMTV debuted a new series called North Metro Now, which compiles all of the best stories from a given month. The series is designed to be aired on other community stations with a goal of expanding the reach of our member cities' videos. North Metro Now is currently airing in 14 additional cities.

OLD BUSINESS

- The Commission was not awarded funding in the initial round of the Digital Equity Competitive Grant offered by the NTIA.
- The Committee discussed the status of the Commission's agreement with the City of Fridley.

MOTION: To recommend to that the Commission reapprove the existing agreement between the NMTC and the City of Fridley as presented. **Motion for approval made by: D. Buchholtz. Second: P. Antonen. The motion was approved unanimously.**

- The Committee discussed the January 13 Blaine City Council Workshop Meeting.

NEW BUSINESS

- E. Houston and D. Peterson updated the Committee on the voting totals and Commission membership for 2025.
- The Committee discussed launching a search for a permanent Executive Director.

ADJOURNMENT

The meeting was adjourned at 11:52 a.m. Motion to adjourn made by: P. Antonen.
Second: D. Buchholtz. The motion was approved unanimously.

North Metro Telecommunications Commission

CODE OF CONDUCT

Purpose

To establish a code of conduct and associated remedies that the Board of Directors agree to abide by in carrying out their duties as members of the North Metro Telecommunications Commission. This code of conduct does not supersede any existing or future statutory or constitutional rights, but simply outlines appropriate commission expectations, behavior, and interactions with each other, North Metro TV staff, citizens, and all other groups encountered as a result of commission business, so as to efficiently and effectively develop and carry out the mission, vision, goals, and established policies of the commission.

Roles/Responsibilities

Meetings – According to the Joint and Cooperative Agreement, the Chair presides over meetings of the Telecommunications Commission. Speakers, including Directors, do not speak until recognized by the chair.

Act in the Public Interest – Recognizing that service to the citizens of our member cities must be our primary concern, directors shall work for the common good of the people of Blaine, Centerville, Circle Pines, Ham Lake, Lexington, Lino Lakes, and Spring Lake Park and not for any private or personal interest. Directors will treat all persons, claims, and transactions in a fair and equitable manner.

Preparation – Directors are expected to be prepared for cable commission meetings.

Agenda Preparation – The Executive Director directs preparation of draft meeting agendas. The final agenda is determined by the Telecommunications Commission prior to the meeting. At the commission meeting, agenda items may be added or deleted by Directors at the discretion of the Chair.

Standards of Conduct

Staff Direction - The Commission directs NMTV staff, contract employees, and consultants only through the Executive Director, as determined by a vote of 51% of all votes cast and the affirmative vote of a majority of the appointed Directors or the affirmative vote of three-fourths of the appointed directors. The Executive Director will request further clarification if they feel it is required so that there is a clear understanding of what the Commission's expectations are in terms of the actions to be taken by staff.

Respect for Staff Time – If a Director is utilizing an inordinate amount of staff time, the Executive Director is required to bring this to the attention of the Commission for resolution.

Interactions – Directors shall refrain from abusive conduct, personal charges or

verbal attacks upon the character or motives of other members of the Telecommunications Commission, committees, staff, or the public.

Respect for Process - Director duties shall be performed in accordance with the processes and rules of order established by the Telecommunications Commission.

Use of Public Resources - Public resources not available to the general public (e.g., NMTV staff time, equipment, or facilities) shall not be used by Directors for private, personal, or political purposes.

Advocacy — Directors shall speak with one voice in representing the official policies and positions of the Telecommunications Commission. When presenting their personal opinions or positions, Directors shall take precaution to not identify themselves as a Commission official.

Improper Influence — Directors shall refrain from using their position to improperly influence the deliberations or decisions of NMTV staff or commission committees.

Positive Work Environment - Directors shall support a positive, efficient, and effective environment for residents and NMTV employees.

Steward of Commission Funds - When a Director's service on the Telecommunications Commission is coming to an end by means of not seeking re-election, resignation, the results of an election, or another city council person being appointed in their stead, that Director shall not subject the Commission to unnecessary expenditures.

Communication

Sharing of Information - It is the responsibility of Directors to publicly share information with all other Directors when they have received it from sources outside of the public decision-making process. Whenever possible, new information or data obtained by Directors will be distributed through the Executive Director to other commission members.

Request for Information - All Directors shall receive the same information at the same time when deemed ready for distribution by the Executive Director. If a Commission member requests information in advance of other Commission members, the information shall be distributed to all members of the Commission.

Focused Discussions - Directors shall work to keep discussions and debates focused on the item under discussion without introducing extraneous or irrelevant information.

Citizen Questions - When Directors receive questions or concerns from citizens, staff will provide the necessary information before a response is given. Directors can

refer questions and concerns from citizens to the Executive Director. NMTV staff should report back to the Telecommunications Commission on the resolution in a timely fashion.

Confidential Information - Directors are subject to the Minnesota Government Data Practice Act as are NMTV staff and, as such, shall respect and preserve the confidentiality of non-public, protected non-public, private, and confidential information provided to them concerning matters of the Commission and cable company. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

Notice of Attendance - If any Director has knowledge or reason to believe there will be a large or emotionally-charged gathering of residents in attendance at an upcoming Commission meeting or committee meeting, they have an obligation to inform the Executive Director as soon as they become aware of the potential situation.

Conflict of Interest - In order to assure their independence and impartiality on behalf of the public good, Directors shall not use their official positions to influence Commission decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

Except as permitted by law, a director must disclose a potential conflict of interest for the public record and refrain from participating in the discussion and vote when a matter comes before that person which: (1) Affects the person's financial interests or those of a business with which the person is associated, unless the effect on the person or business is no greater than on other members of the same business classification, profession, or; or (2) Affects the financial interests of an organization in which the person participates as a member of the governing body, unless the person serves in that capacity as the representative of a member city.

Social Media - The Commission requires Directors to act in a prudent manner with regard to postings on social media sites.

Implementation

Orientation - This Code of Conduct shall be included in the regular orientation for new Directors. Each year, the new Commission shall reaffirm this Code of Conduct.

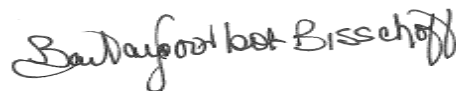
Compliance and Enforcement - Directors are responsible for assuring that the Code of Conduct is understood and followed, and that the public can continue to have full confidence in the integrity of the North Metro Telecommunications Commission.

Remedies

The Commission is responsible for policing its members. When inappropriate behaviors are observed, any member of the Commission can intervene. If inappropriate behavior is observed, the Executive Committee will discuss the behavior at the next committee meeting. By direction of the Commission, it will be determined by a vote of 51% of votes cast and the affirmative vote of a majority of the Directors or the affirmative vote of three-fourths of the appointed Directors whether:

- 1) A letter is sent to the offending Director stating that he/she failed to observe the Code of Conduct and requesting that the inappropriate behavior be redressed; or
- 2) The Director is formally sanctioned by resolution at a council meeting.

This Code of Conduct was approved by the North Metro Telecommunications Commission June 13, 2024.



Barbara Goodboe-Bisschoff, Chair

ATTEST:



Eric Houston, Co-Interim Executive Director

NORTH METRO TV

TO: CABLE COMMISSION
FROM: ERIC HOUSTON & DANIKA PETERSON
SUBJECT: FEBRUARY MISCELLANIOUS UPDATES
DATE: 1/30/2025

105th Avenue

The NMTV News Team took a look at new developments near the National Sports Center along 105th Avenue in central Blaine. The developments include a new pizza place and a high end steakhouse from a local developer. The team also previewed new construction that will include a baseball and event stadium. Local residents must be curious about all the construction as the video quickly amassed more than 4,000 views on social media in just its first four days.

MN High School All-Star Football Game

Kenton Kipp, Ted Leroux and the NMTV Sports Team were thrilled to cover the 2024 Minnesota High School All-Star Football Game at US Bank Stadium. While the production offered ample technical challenges, the NMTV team rose to the occasion, working with Vikings staff to create an exceptional looking broadcast. Circumstances required the team to use the Vikings own control room and the staff relished the opportunity. The entire production boasted the North Metro TV logo, offering exposure for our station and our exceptional sports coverage to viewers across the metro. The game aired on our channel and was streamed free live on NSPN.

Sports Are Free!

Yes, you heard right. North Metro TV Sports are free again! After a 14 month trial, we have decided not to extend our monthly streaming partnership with NSPN. We will instead continue to work with them on post season games and special events. Regular season games, meanwhile, will once again stream live for free on northmetrotv.com and Youtube. The free games started airing in mid-January and are already a big success. The first seven games have attracted more than 1,500 viewers with the most popular, a boys' hockey game between Blaine and Spring Lake Park, receiving nearly 700 views alone. Compare this to January 2024, when just 202 total viewers watched our games on NSPN. We are excited to once again offer these games free to a wide audience and are looking forward to adding even more viewers as word gets out.

NMTV Stays in Shape with the Rookery

Municipal Producer Trevor Scholl has created a new series of videos that highlight how to stay in shape at the Rookery in Lino Lakes. Working with Rookery staff on and off for several months, Trevor has ultimately completed seven great videos covering everything from yoga to pilates to silver sneakers. Trevor is releasing the videos one at a time on Facebook, in hopes of offering viewers regular reminders of the fun activities available in Lino Lakes.

North Metro Now

North Metro Now is a brand new series that will have a greater reach than any other NMTV show. Each episode will feature a compilation of all of the best stories from the previous month, combined with new in studio anchor footage. While North Metro Now will air online and on channel 15, it is specifically designed to be shared with other area community stations. The idea, inspired by recent Cable Commission conversations, is to widen North Metro TV's reach and share our member cities' stories across the metro. The premier episode is currently airing in 14 additional cities, including Coon Rapids, Anoka, Andover, and all of the CCX member cities. We plan to add even more cities throughout the year.

NORTH METRO TV

TO: OPERATIONS COMMITTEE/CABLE COMMISSION
FROM: ERIC HOUSTON & DANIKA PETERSON
SUBJECT: FOURTH QUARTER COMCAST FRANCHISE AND PEG FEE REPORTS
DATE: 1/30/2025

The Commission has received the fourth quarter gross revenue, franchise, and PEG fee reports and payments from Comcast. Comcast is required to provide these payments and reports within 30 days of the end of the quarter.

While PEG fees continued their slow, but steady decline, we actually saw a five percent boost in franchise fees this quarter.

NORTH METRO TV

TO: CABLE COMMISSION
FROM: ERIC HOUSTON AND DANIKA PETERSON
SUBJECT: 2025 DISBURSEMENT OF FEES TO CITIES
DATE: 2/6/2025

Each year, after the receipt of the 4th quarter franchise and PEG fees from Comcast, we calculate the amount of fees to return to each city. As a reminder, here is a brief background explaining the process for determining that amount.

The Joint Powers Agreement (JPA) establishes the flow of funds from the cable company to the Commission. Both the JPA and the Franchise Document offer further guidance regarding the payment and distribution of those funds.

- Franchise and PEG fees are paid by the cable company quarterly.
- Franchise and PEG fees are paid to the Commission.
- Fees must be received by the Commission within 30 days of the end of the quarter.
- Franchise fees collected in 2024 are utilized for the 2025 budget year. PEG fees are utilized in the year they are received.
- The Commission/NMTV budget is funded by franchise and PEG fees.
- The amount of fees returned to the cities is determined during the NMTV budgeting process, conducted between May and June each year.
- That amount is divided between the Member Cities based on the percentage of each city's cable revenue compared to total system cable revenue.
- The Operations Committee considers this distribution at the February meeting and typically recommends disbursement of the funds as presented.
- City use of fees is currently restricted by the JPA to any "citizen communications-realted" expense. However, in the future, PEG fees may be restricted to cable television capital expenditures only.

RECOMMENDED MOTION: To approve the fee distributions as presented.

DISBURSEMENT OF FEES RECEIVED BY CITIES IN 2025
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CITY	TOTAL FEES RETAINED BY CITIES		CITY REVENUE AS % OF SYSTEM REVENUE		TOTAL FEES RETAINED BY EACH CITY
Blaine	\$100,000	x	54.36120%	=	\$54,361.20
Centerville	\$100,000	x	3.62911%	=	\$3,629.11
Circle Pines	\$100,000	x	4.12117%	=	\$4,121.17
Ham Lake	\$100,000	x	14.35023%	=	\$14,350.23
Lexington	\$100,000	x	1.46694%	=	\$1,466.94
Lino Lakes	\$100,000	x	16.96242%	=	\$16,962.42
Spring Lake Park	\$100,000	x	5.10894%	=	\$5,108.93
TOTAL:	\$100,000	x	100.00001%	=	\$100,000.00

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★ All amounts are rounded to nearest dollar.

NORTH METRO TV

TO: CABLE COMMISSION
FROM: ERIC HOUSTON AND DANIKA PETERSON
SUBJECT: EXECUTIVE COMMITTEE NOMINATIONS
DATE: 2/6/2024

Each year, the Commission is required to elect an Executive Committee comprised of Chair, Vice Chair, Treasurer, and Secretary. This Committee meets quarterly on the first Wednesday of February, June, September, and December at 6:00 p.m. at North Metro TV. The Executive Committee discusses matters that will come before the full Commission and makes recommendations to the full Commission regarding those matters.

Any member of the Commission can hold any seat, but a member cannot hold the same seat for three consecutive years.

Four Members of the Commission have indicated a willingness to serve on the Executive Committee. They are Nancy Golden as Secretary, Barbara Goodboe-Bisschoff as Chair, Chris Massoglia as Chair, and Dale Stoesz as Vice Chair.

The Executive Committee nominated Chris Massoglia for Chair, Dale Stoesz as Vice Chair, and Nancy Golden as Secretary.

NORTH METRO TV

TO: CABLE COMMISSION
FROM: ERIC HOUSTON AND DANIKA PETERSON
SUBJECT: INSURANCE LIABILITY WAIVER
DATE: 1/30/2025

Every year, as an administrative matter, the Commission has to decide whether or not to waive the statutory tort limits for insurance purposes. This decision determines the amount an individual would be able to recover on any claim to which the statutory tort limits apply. In the past, the Commission has opted to NOT WAIVE the monetary limits on municipal liability.

RECOMMENDED MOTION: To NOT WAIVE the monetary limits on municipal tort liability.

LIABILITY COVERAGE WAIVER FORM

Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before their effective date of coverage. [Email completed form to your city's underwriter, to \[pstech@lmc.org\]\(mailto:pstech@lmc.org\), or fax to 651.281.1298.](#)

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. *The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.* The decision has the following effects:

- *If the member does not waive the statutory tort limits*, an individual claimant could recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.
- *If the member waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could recover up to \$2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.
- *If the member waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name: _____

Check one:

- ☐ The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#).
- ☐ The member **WAIVES** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#), to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting: _____

Signature: _____

Position: _____

This is the Way: Equal Access to Broadband Through Municipal Franchising

MICHAEL R. BRADLEY, *Partner, Bradley Werner, LLC, Minneapolis, Minnesota*



The goal of equal access to broadband is not controversial or partisan. Most agree that citizens should have equal access to the same quality of service to broadband; that broadband networks should be built out to serve all citizens over a reasonable time; that there should be reasonable customer service and consumer privacy protections; and price protections.¹ The importance of ensuring equal access to broadband is particularly relevant today as federal and state governments are making historic public grants to improve broadband networks throughout the country.²

Surprisingly, despite historically high public investments, there remain no long-term guardrails to ensure residents receive equal access to the same quality of service, pricing, and consumer protections. While the FCC enacted digital discrimination regulations,³ the FCC likely lacks express authority to implement additional broadband rules.⁴ In an effort to presumptively assert additional regulatory authority over broadband, the FCC reclassified broadband earlier this year.⁵ While this reclassification would have arguably allowed the FCC to develop additional broadband rules, the Sixth Circuit stayed the reclassification, which forecasts the reclassification will likely fail.

Regardless of the outcome of the appeal, local governments are in the best position to ensure equal access to broadband through franchising. If available, local governments must use their existing home rule or statutory authority to franchise broadband.⁶ If necessary, state laws must be amended to clarify municipal authority to

franchise. Broadband is the future of municipal franchising. Local franchising is the way to ensure equal access to broadband.

A Valuable Special Privilege

Generally, a city has the sovereign power delegated by state law to grant a franchise to convey a highly valuable special privilege to corporations to use the scarce public right-of-way to deliver services to a city's residents.⁷ A franchise is a special privilege that allows a franchisee to profit from the use of the public right-of-way in a manner not generally available to the public as a common right.⁸ Without question, broadband providers must have this privilege in order to access the public right-of-way to cost effectively (and profitably) deliver services. Franchisees, in return for this valuable special privilege, pay franchise fees, which is essentially the rent for the use and occupation of the public property.⁹ While organizations like the Free State Foundation suggest that fees are the only policy benefit of franchising,¹⁰

they ignore the value of the privilege to use public rights-of-way¹¹ or how local governments require franchisees to comply with requirements benefiting citizens, as discussed in detail below.

Source of Municipal Franchise Authority

The source of local franchising authority arises from a number of sources including, but not limited to, state law,¹² state constitutions,¹³ municipal charters,¹⁴ and state common law, including state statutory and common law recognition of local authority to manage the public rights-of-way. Local franchising is a sovereign power that resides in the states and is not derived from federal law, including the Communications Act.¹⁵ To the extent the Communications Act does not lawfully restrict or address a particular service, a local government may regulate the service as state law provides.¹⁶ To that end, courts recognize that the Communications Act creates a dual federal-state regulatory structure.¹⁷ Today, broadband is classified under federal law as a Title I information service.¹⁸ Title I does not preempt local franchising of broadband,¹⁹ just as it did not preempt local franchising of cable service when cable service was an information service prior to the passage of the federal Cable Act.²⁰

Earlier in the year, when attempting to reclassify broadband, the FCC once again recognized the dual federal-state regulatory system over communications networks and made it clear that

it would not preempt franchising even if broadband was reclassified to a Title II telecommunications service.²¹ The order states:

We decline requests to categorically preempt all state or local regulation affecting [broadband internet access service] in the absence of any specific determination that such regulation interferes with our exercise of federal regulatory authority. The [Communications] Act establishes a dual federal–state regulatory system in which the federal government and the states may exercise concurrent regulatory authority over communications networks.²²

Additionally, the FCC affirmed other roles typically included in franchises by local governments regardless of the federal reclassification of broadband, such as:²³

- “[G]enerally policing such matters as fraud, taxation, and general commercial dealings.”
- “[P]rotecting consumers from fraud, enforcing fair business practices, for example, in advertising and billing, and generally responding to consumer inquiries and complaints.”
- State Consumer Protection Laws, such as the California Internet Consumer Protection and Network Neutrality Act of 2018.
- Promoting Broadband Affordability Programs.²⁴

Municipal Franchising Success Story

Cities have a long history of protecting citizens through franchising. Through cable franchising, for example, cities have ensured that their residents are served by the cable system over a reasonable period of time with the same quality of service and pricing.²⁵ When necessary, municipal franchising authorities have required cable system upgrades, which resulted in superior broadband offerings compared to phone companies.²⁶ Cable franchises

also have customer service protections and provided for public benefits such as public, educational, and governmental (PEG) access channels. Local cable franchising has undeniably been effective in ensuring universal access, universal pricing, area-wide buildout, and upgrades.²⁷ As local governments explained to the FCC recently:²⁸

For decades, local governments have protected the public interest through franchises and other rights-of-way management tools.²⁹ In the cable franchise context, local governments have required every cable operator to construct its cable system to serve everyone in the municipality, and, later, required system upgrades to ensure the cable system provided an appropriate level of service.³⁰ Local governments have, as required in the 1984 Cable Act, prohibited cable operators from redlining lower income communities.³¹ They have also included important public benefits, such as public, educational and government (PEG) access programming in local franchises to ensure access to local news, information, public meetings, high school sports and events, and more.³²

National and regional organizations agree that municipalities should be a part of the solution to ensuring equal access to broadband. As the League of Minnesota Cities explained in its Digital Discrimination Comments:

Local governments are in the best position to recognize and respond to the needs of their residents. It is simply not possible for the federal government to create a “one size fits all” plan that will ensure efficient access to broadband across the entire country or to prevent or eliminate digital discrimination.”³³

The National League of Cities echoed those comments stating, “Local government, as the level of government

closest to the consumer, is in the best position to identify potential or actual digital discrimination and should take a leading role in preventing and addressing it.”³⁴

The effectiveness of franchising authority has been supported by the FCC in two recent orders. In its Digital Discrimination Order, the FCC adopted the recommendations of the Communications Equity and Diversity Council (“CEDC”), which acknowledged the importance of local franchising.³⁵ The CEDC Recommendations and Best Practices recognized the long-standing efforts of local governments to promote nondiscriminatory access to communications services through franchises and rights-of-way management.³⁶

Continued on page 8



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Broadband Franchising Results in Equal Access to Broadband

Plain and simple, local franchising has a history of success and should be used to ensure equal access to broadband. The following is a sampling of the issues that franchising can address.

Long-Term Protection.

Updating state laws to clearly authorize broadband franchising is particularly important now, as states across the country are about to distribute over \$42 billion in federal grants to broadband companies over the next two years.³⁷ Additionally, the broadband industry is seeking additional public benefits, such as sales tax exemptions for purchasing broadband facilities and government subsidies to serve low-income families.³⁸ Current federal and state programs do not address the long-term interests of residents, which is somewhat shocking considering the hundreds of millions of public dollars being given to the broadband industry. Franchising provides long-term protection.

Equitable Buildout.

Broadband franchising will allow local governments to require reasonable build-out schedules to ensure all residents are served with the same quality of services. The effectiveness of local cable franchising buildout is undeniable. Compare the availability of a standard quality of service throughout the country and it will consistently show the local cable system outperforms the local telephone company. Local governments have required every cable operator to construct its cable system to serve everyone in the municipality, and, later, required system upgrades to ensure the cable system provided an appropriate level of service.³⁹ Additionally, local governments have, as required in the 1984 Cable Act, prohibited cable operators from redlining lower income communities.⁴⁰

Minnesota cities saw this firsthand when granting cable franchises to the local ILEC (incumbent local exchange carrier) phone company. According to the ILEC, to provide cable service to a household, the ILEC needed to be capable of providing a certain minimum broadband download speed. In reviewing build-out data from the ILEC, it became immediately apparent that, unlike the traditional franchised cable operator, the ILEC had an inconsistent, non-universal, quality of broadband service when compared to the cable system. Since local franchising of phone companies was prohibited by state law in Minnesota, local governments were never allowed to require the ILEC to provide universal service across its service territory. When franchising the ILEC's cable service, it was the first time the phone company was required to equitably build out its network with significant investment throughout a city.⁴¹ These provisions resulted in deployment of fiber optic facilities and the availability of cable service and high speed broadband services in all areas of cities, including areas with low income households and historically underrepresented populations.⁴² Franchising ensures broadband systems will be built in a way that serves all residents equally.

Customer Service.

When it comes to broadband service, residents want a local person they can call with service issues and questions about their bills. Cities do that today with cable providers, but not with other broadband providers. There are instances when a broadband provider's service is down, but the customer and the city have no way of communicating with the provider. For example, in one Minnesota city recently, an elderly resident was without service for over six weeks. In another instance, an administrative law judge found that customers of state's largest phone provider, "experienced multiple services outages or disruptions caused

by deficient outside plant or equipment over an approximately four-and-a-half-year period."⁴³ With broadband franchising, customers will have someone advocating for them, there will be standards for response to customers, and there will be consequences for failing to comply.

Through franchising, local governments protect their residents by negotiating and enforcing customer service requirements in cable franchise agreements.⁴⁴ These customer service provisions include call response times, installation response times, late fee restrictions, access channels, electronic programming guide provisions, anti-redlining, and anti-discrimination requirements.⁴⁵ Local governments have supported, and the state of Maine recently adopted, customer service requirements relating to access television and refunds.⁴⁶ Contrast these efforts to the broadband customer in Wisconsin who was told that she could not terminate her service just because she called on a weekend. Franchising will protect these customers with reasonable customer service protections.

In addition to negotiating and enforcing cable franchise customer service provisions, local governments are relied upon by the FCC to participate in consumer protection dockets. Just in the past year, local governments from across the country have supported consumer protection rules at the FCC, and they have also supported digital discrimination rules at the FCC.⁴⁷ Local government Comments and reply Comments were cited favorably by the FCC numerous times in its final Report and Order that adopted digital discrimination rules.⁴⁸

Local government franchising authorities supported All-In Cable Pricing rules to require the disclosure of all cable fees, including some referred to as junk fees.⁴⁹ These fees include extra fees to receive local broadcast channels, sports programming, and even high-definition television service. Once again, local government Com-

ments and Reply Comments were cited throughout the FCC's final Report and Order.⁵⁰ Municipalities have also participated in the development of state Digital Equity Plans.⁵¹ These efforts show that municipalities will protect all residential consumers through broadband franchising. Municipalities have an undeniably successful record of using its franchising authority to protect consumers.

Public benefits.

Receipt of public benefits is another valuable function of franchising. Broadband franchising will allow cities to continue to fund access television and to address other digital adoption and equity programs.⁵² The CEDC recognized this principle, finding that "the privilege of using public assets comes with an obligation to provide a benefit to the public, which includes ensuring that all members of the community have equal access to broadband..."⁵³

For cable franchises, important services, such as public, educational and government (PEG) access programming in local franchises to ensure access to local news, information, public meetings, high school sports and events, and more.⁵⁴ Local broadband franchising will allow local governments to negotiate public benefits to help promote equal access to broadband and to eliminate digital discrimination. Some examples of these public benefits could include computer centers, training on the use of digital services, the next generation of access television, and consumer protections.

The Minnesota Equal Access to Broadband Act

In 2024, the state of Minnesota began exploring the role that franchising can play in ensuring equal access to broadband for all Minnesotans. The Minnesota Equal Access to Broadband Act, HF 4182⁵⁵/SF 4262,⁵⁶ was introduced in the 2024 legislative session. The bill authorized cities to franchise broadband providers, which would ensure

that all their residents will receive the same broadband. It would also allow cities to receive other public benefits such as access TV and promote digital equity. Through an amendment during committee hearings, the bill capped fees to mirror cable fees.

While the bill did not pass this year, it generated significant legislative support. The bill was heard multiple times in the House of Representatives and ultimately added to the House Commerce Policy Omnibus Bill,⁵⁷ which passed out of committee to the House floor where it received its Second Reading on April 4, 2024. The bill was also heard by the State and Local Government Committee in the House and laid over for possible inclusion in the State and Local Government Omnibus Bill.

The Equal Access to Broadband Act enjoyed widespread support from the League of Minnesota Cities, MACTA, NATOA, ACM, the League of Women's Voters, and others, but was opposed by the cable and phone associations and the state Chamber of Commerce. While the Minnesota Equal Access to Broadband Act is fairly technical and Minnesota-centric, it could be a starting point for drafting model broadband franchising legislation for use throughout the country.

Challenges to Municipal Broadband Franchising

The broadband industry raised several challenges to the Minnesota Equal Access to Broadband Act, most of which were self-serving with no factual or legal basis.

Franchise Fees.

Rather than recognizing the valuable special privilege of enjoying access to the public rights-of-way to conduct their business, the broadband industry opposed the Minnesota Equal Access to Broadband Act claiming franchise fees were taxes amounting to a "slush fund" for cities. As shown above, fran-

chise fees are the consideration for the special privilege to use the public right-of-way for private profit.⁵⁸ It is a very valuable privilege that few companies enjoy. Without this privilege, communications companies could not operate their businesses in a cost-effective way. The franchise fees allowed by the Minnesota legislation mirrored the fees currently paid by cable operators. As the Texas Court of Appeals recently recognized, public property – the right-of-way – should not be given away below its fair market value.⁵⁹ No government should give away public property for nominal or no consideration and it is fundamentally fair to require all users to pay franchise fees, not just some.

Stacking.

Opponents to the Equal Access to Broadband Act claimed fees on franchisees would be unfairly "stacked" on providers. One claim was that multiple governmental entities could require a broadband franchise, thus forcing a provider to obtain multiple franchises for the same area. No reasonable reading of the Equal Access to Broadband Act could support that argument. Nevertheless, the bill was amended to clarify that there is one local franchise authority in each city, so there would be no so-called stacking.

Secondly, opponents claimed that fees would be stacked on multiple services provided by individual providers, such as cable and broadband. This stacking argument fails to recognize the valuable privilege of using the public right-of-way.⁶⁰ In rejecting a similar stacking argument, the Texas Court of Appeals held such an argument "would do violence to the concept of consideration, and we are directed to no authority that would compel such an anomalous result."⁶¹

Impact on Low Income Residents.

The broadband industry presented no solutions to lowering rates for low-income persons, even though the industry

Continued on page 10

would be receiving \$750 million in federal and state broadband grant funding and was requesting additional public benefits for the industry. Instead, the industry claimed that franchise fees will impact low-income residents with higher broadband costs. No credible information was submitted in support of this claim. On the other hand, local governments testified in support of the Equal Access to Broadband Act that local franchising authorities stood up for subscribers in terms of digital discrimination and fair pricing.

Impact on Buildout.

The broadband industry testified that allowing franchising will slow down the build out of broadband and that they would not build to cities that chose to require a franchise. Given the pending billions of dollars of state and federal funding at stake, the argument lacked veracity. The expenditure of \$42 billion of taxpayer dollars would be irresponsible without protecting the long-term interests of residents. Local franchising will encourage and promote more equitable broadband deployment - not less. Only local governments through cable franchising have been able to demand buildout maps and ensure full build out to every neighborhood, home and apartment. In other words, franchising promotes equal access to broadband.

Preemption.

Industry opponents claimed that federal law would preempt the proposed Minnesota Equal Access to Broadband Act. First, the industry claimed the bill would be preempted by the Internet Tax Freedom Act ("ITFA").⁶² The ITFA allows fees for the conveyance of privileges. A franchise grants the privilege of use of the public right-of-way. There is no preemption. Next, industry claimed the bill would be preempted by the FCC's Small Cell Order.⁶³ Since the bill excluded small cell wireless facilities, the Small Cell Order would have no preemptive effect on the bill. Finally,

industry opponents claimed preemption by the FCC's Mixed-Use Rule.⁶⁴ The Mixed-Use Rule has a somewhat tortured history. The original order preempted local governments from regulating noncable services over a cable system.⁶⁵ The legal reasoning behind the Mixed-Use Rule was largely rejected on appeal and the court ruled that regulation of non-cable services of a cable operator is allowed if it is consistent with the federal cable act.⁶⁶ This was also addressed in the bill amendments.

Conclusion

The goal of equal access to broadband is not controversial. The way to obtain the goal is through franchising broadband service providers. Municipal franchising is the best path forward to ensure buildout, quality of service, customer service, privacy protections, fair pricing, and public benefits to address digital adoption and education, all of which residents want and expect. Municipalities have a successful franchising history. Local governments without current statutory or home rule authority should seek legislative change to allow municipal broadband franchising or risk their communities being less competitive and underserved. Franchising is the future and the way to equal access to broadband.

Editor's Note: On January 2, 2025, the Sixth Circuit released *Ohio Telecom Ass'n v. FCC*, 2025 WL 16388, ___ F.4th ___ (6th Cir. 2025), setting aside the FCC's 2024 Safeguarding and Securing the Open Internet Order that reclassified broadband internet access service as a Title II telecommunications service subject to FCC common carrier regulations and net-neutrality restrictions. Citing *Loper-Bright* and the demise of agency deference, the court held that the FCC's reclassification order exceeded its statutory authority and that based on a plain reading of the statute broadband internet access service is a Title I information service. The Court similarly rejected the FCC's reclassification of mobile

broadband. This development makes state initiatives regarding equal access and broadband franchising, neither of which are preempted by the Act or by the Sixth Circuit decision, even more significant.

Notes

1. *See, e.g.,* City of Minneapolis Digital Opportunity Plan Comments and Qualitative Data to the Minnesota Office of Broadband Development (June 30, 2023).
2. *See* Broadband Equity Access and Deployment Program – Overview, <https://broadbandusa.ntia.gov/funding-programs/broadband-equity-access-and-deployment-bead-program> (last visited Oct. 30, 2024) ("The Broadband Equity, Access, and Deployment (BEAD) Program, provides \$42.45 billion to expand high-speed internet access by funding planning, infrastructure deployment and adoption programs in all 50 states, Washington D.C., Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands").
3. *See* In re Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination, Report and Order, 89 Fed. Reg. 4128, GN Docket No. 22-69, 2023 WL 8614401 (rel. Nov. 20, 2023), appeal docketed, *Minn. Telecom. Alliance v. FCC*, No. 24-1179 (8th Cir. 2024) (the "Digital Discrimination Order").
4. *See* *Mozilla Corp. v. FCC*, 940 F.3d 1, 80-81 (D.C. Cir. 2019) (per curiam) ("Not only is the Commission lacking in its own statutory authority to preempt, but its effort to kick the States out of intrastate broadband regulation also overlooks the Communications Act's vision of dual federal-state authority and cooperation in this area specifically;" *Ohio Telecom Ass'n v. FCC*, Case No. 247000, Document: 51-2 (6th Cir. 2024) (FCC's 2024 Title II broadband reclassification order

- stayed, unlikely to succeed on the merits).
5. *See* In re Safeguarding and Securing the Open Internet, Declaratory Ruling, Order, Report and Order, and Order On Reconsideration, FCC 24-52, 89 Fed. Reg. 45404 (Pub. May 22, 2024), appeal docketed, Ohio Telecom Ass’n v. FCC, Case No. 247000, Document: 51-2 (6th Cir. 2024) (Title II reclassification stayed, unlikely to succeed on this merits) (“2024 Open Internet Order”).
6. *See, e.g.*, Lincoln Mun. Code Ch. 5.12 (2021).
7. *See* Bank of Augusta v. Earle, 38 U.S. 519, 595, 10 L. Ed. 274, 1839 WL 4294 (1839); State of California v. Central Pac. R. Co., 127 U.S. 1, 41, 8 S. Ct. 1073, 32 L. Ed. 150 (1888); *see also* Village of Blaine v. Ind. Sch. Dist. No. 12, 265 Minn. 9, 121 N.W.2d 183 (1963); Northern States Power Co. v. City of Granite Falls, 186 Minn. 209, 242 N.W. 714 (1932); City of Saint Paul v. Northern States Power Co., 462 N.W.2d 379 (Minn. 1990); Burns, 164 P.3d at 483; 12 McQuillin Mun. Corp. § 34:2 (3d ed.).
8. *See, e.g.*, Burns, 164 P.3d at 483; 12 McQuillin Mun. Corp. § 34:2 (3d ed.).
9. *See* City of St. Louis v. Western Union Tel. Co., 149 U.S. 465, 13 S. Ct. 990, 37 L. Ed. 810 (1893); Burns, 164 P.3d at 483; 12 McQuillin Mun. Corp. § 34:53 (3d ed.).
10. *See, e.g.*, Daniel A. Lyons, *Municipal Broadband Fees Are Bad Law and Bad Policy*, 19 Free State Foundation, No. 39 (Oct. 18, 2024).
11. *See* City of McAllen v. Texas, ___ S.W.3d ___, 2024 WL 4799325, *5 (Tex. Ct. App. Nov. 15, 2024) (for a wireless node, “no case holds that a \$250 statutory fee constitutes sufficient consideration under the gift clause for a good potentially worth \$2,500 if acquired in an arm’s-length transaction”).
12. *See, e.g.*, Minn. Stat. § 222.37; Minn. Stat. Ch. 238.
13. *See, e.g.*, Okla. Const. art. XV, § 5(a).
14. *See, e.g.*, Philadelphia Home Rule Charter, *available at* https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-262986; Minneapolis, Minnesota, Charter, *available at* https://library.municode.com/mn/minneapolis/codes/code_of_ordinances?no-deld=CH.
15. *See* 12 McQuillin Mun. Corp. § 34:10 (3d ed.); Burns, 164 P.3d at 483.
16. *See* note 4 *supra*.
17. *See, e.g.*, Mozilla, 940 F.3d at 81 (noting “the Communications Act’s vision of dual federal-state authority and cooperation” on broadband regulation); ACA Connects America’s Commc’ns Ass’n v. Bonta, 24 F.4th 1233 (9th Cir. 2022); City of Eugene v. FCC, 998 F.3d 701, 711 (6th Cir. 2021) (noting that “Congress went out of its way not to suggest that federal law is the fountainhead of all franchisor regulatory authority”); City of Dallas v. FCC, 165 F.3d 341, 345 (5th Cir. 1999) (stating that the 1984 Act “preserve[d] the role of municipalities in cable regulation”); Sprint Telephony Pcs, L.P. v. County of San Diego, 543 F.3d 571, 576 (9th Cir. 2008) (cert. den’d, Sprint Telephony PCS, L.P. v. San Diego Cnty., 557 U.S. 935 (2009)) (noting that “Section 332(c)(7)(A) preserves the authority of local governments over zoning decisions regarding the placement and construction of wireless service facilities...”); CNSP, Inc. v. City of Santa Fe, (10th Cir. 2019) (after the Telecommunications Act of 1996, “local governments retain the authority ‘to manage the public rights-of-way’”).
18. Nat’l Cable & Telecomms. Ass’n v. Brand X Internet Servs., 545 U.S. 967, 993-96 (2005) (cable internet service is a Title I information service); In re Inquiry Concerning High-Speed Access to the Internet Over Cable & Other Facilities, 17 FCC Rcd. 4798, 4824 ¶ 41 (2002) (cable internet service classified as Title I information service); In re Promoting the Open Internet, Report and Order On Remand, Declaratory Ruling, and Order, 30 FCC Rcd. 5601 (2015) (broadband reclassified as a Title II telecommunications service); In re Restoring Internet Freedom, 33 FCC Rcd. 311 (2018) (broadband reclassified as Title I information service); *Mozilla Corp. v. FCC*, 940 F.3d 1, 18-21 (D.C. Cir. 2019) (per curiam) (Title I reclassification upheld); 2024 Open Internet Order (order reclassified broadband as Title II telecommunication service, stayed on review).
19. *See* Mozilla, 940 F.3d at 75-6 (D.C. Cir. 2019) (per curiam) (FCC local preemption directive vacated); N.Y. State Telecomms. Ass’n v. James, 101 F.4th 135, 140-41 (2nd Cir. 2024).
20. *See* 47 U.S.C. § 152(a); CATV and Community Antenna Systems, 2 F.C.C.2d 725, 6 R.R.2d 1717 (1966).
21. 2024 Open Internet Order, at ¶¶ 265-275.
22. *Id.*, at ¶ 268.
23. 2024 Open Internet Order, at ¶¶ 268-275.
24. *Id.*, at ¶ 275 (“We also clarify that the mere existence of a state affordability program is not rate regulation”).
25. *See e.g.*, H.R. Rep. No. 98-934 at 94, reprinted in 1984 U.S.C.C.A.N. 4655, 4731 (From the 1984 Cable Act House Report, “A state may, for instance, exercise authority over the whole range of cable activities, such as negotiation with cable operators; consumer protection; construction requirements; rate regulation or deregulation; the assessment of financial qualifications; the provision of technical assistance with respect to cable; and other franchise related issues—as long as the exercise of that authority is consistent with Title VI.”); *see also* Frederick E. *Continued on page 12*

Ellrod III & Nicholas P. Miller, *Property Rights, Federalism, and the Public Rights of Way*, 26 SEATTLE U. L. REV. 475 (2003).

26. *See, e.g.*, Comments of the City of Philadelphia, et al., at 7, In re Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination, GN Docket No. 22-69, <https://www.fcc.gov/ecfs/document/1022165457449/1> (Feb. 21, 2023) (“City of Philadelphia Digital Discrimination Comments”).

27. *See e.g.*, City of Philadelphia Digital Discrimination Comments at 7; Comments of the League of Minnesota Cities, at 2; In re Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination, GN Docket No. 22-69, at 2, <https://www.fcc.gov/ecfs/document/10222116501122/1> (Feb. 21, 2023) (“League of Minnesota Cities Digital Discrimination Comments”).

28. *Id.*

29. *See, e.g.*, City of St. Louis v. Western Union Tel. Co., 148 U.S. 92 (1893) (upholding regulations of telegraph company’s use of rights-of-way); Comments of the City of Philadelphia, et al., In re Implementation of Section 621(a) (1) of the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket No. 05-311, at 9-12, <https://www.fcc.gov/ecfs/document/11141552701020/1> (November 14, 2018). (“City of Philadelphia 621 Comments”).

30. *See, e.g.*, 47 U.S.C. § 546(b)(2); Northwest Suburbs Cable Communications Commission Cable Franchise Ordinance with King Videocable Company - Minnesota, Section 5.4 (Upgrade of Home Subscriber Network) (November 20, 1997).

31. *See* 47 U.S.C. § 541(a)(3) (“In awarding a franchise or franchises, a franchising authority shall assure that access to cable service is not denied to any group of potential residential cable

subscribers because of the income of the residents of the local area in which such group resides.”)

32. *See, e.g.*, City of Philadelphia 621 Comments, at 9; National Association of Telecommunications Officers and Advisors, et al. Comments, In re Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket No. 05-311, at 10 (Nov. 14, 2018) (“NATOA 621 Comments”).

33. League of Minnesota Cities Digital Discrimination Comments, at 2.

34. National League of Cities Digital Discrimination Comments, In re Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination, GN Docket No. 22-69, at 1 (Feb. 21, 2023).

35. *See* Digital Discrimination Order, at ¶¶ 175-178.

36. Recommendations and Best Practices to Prevent Digital Discrimination and Promote Digital Equity Submitted to the Federal Communications Commission by the Working Groups of the Communications Equity and Diversity Council, at 31, <https://www.fcc.gov/sites/default/files/cedc-digital-discrimination-report-110722.pdf> (Nov. 7, 2022).

37. *See* note 2 *supra*.

38. *See e.g.*, Joe Supan, *Could the Election Revive the Affordable Connectivity Program?*, CNET, <https://www.cnet.com/home/internet/could-the-election-revive-the-affordable-connectivity-program/> (last visited October 30, 2024).

39. *See, e.g.*, 47 U.S.C. § 546(b)(2); Northwest Suburbs Cable Communications Commission Cable Franchise Ordinance with King Videocable Company - Minnesota, Section 5.4 (Upgrade of Home Subscriber Network) (November 20, 1997).

40. *See* 47 U.S.C. § 541(a)(3) (“In awarding a franchise or franchises, a franchising authority shall assure that

access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.”)

41. An example of the equitable buildout language stated in part:

The Parties agree that the following is a reasonable build-out schedule taking into consideration Grantee’s market success and the requirements of Minnesota state law.

(i) **Complete Equitable Build-Out.**

Grantee aspires to provide cable service to *all households* within the City by the end of the initial term of this Franchise. In addition, *Grantee commits that a significant portion of its investment will be targeted to areas below the median income in the City.*

(ii) Initial Minimum Build-Out Commitment. Grantee agrees to be capable of serving a minimum of fifteen percent (15%) of the City’s households with cable service during the first two (2) years of the initial Franchise term, provided, however that Grantee will make its best efforts to complete such deployment within a shorter period of time. *This initial minimum build-out commitment shall include deployment to households in every Ward in the City and to a significant number of households below the medium income in the City.* Nothing in this Franchise shall restrict Grantee from serving additional households in the City with cable service; ...

See A Cable Television Franchise Agreement Between City of Minneapolis, Minnesota and Qwest Broadband Services, Inc., D/B/A CenturyLink, City of Minneapolis Code of Ordinances, Appendix H, Chapter 2, Section 1.2 (2014) (emphasis added).

42. *See* City of Philadelphia Digital Discrimination Comments, at 8-9 (City of Minneapolis, the Northwest

Suburban Cable Communications Commission, North Metro Telecommunications Commission, and South Washington Telecommunications Commission all approved franchises with similar equitable buildout provisions with similar results).

43. *See* In re Formal Complaint Regarding the Services Provided by the Qwest Corporation d/b/a CenturyLink in Minnesota, on Behalf of the Communications Workers of America, MN-PUC Docket No. C-20-432, at 23 (Mar. 13, 2024).

44. *See, e.g.*, NSCC Digital Discrimination Reply Comments, at 2.

45. City of Philadelphia Digital Discrimination Comments, at 7, NSCC Digital Discrimination Reply Comments of the NSCC, at 2.

46. *See* An Act to Ensure Nondiscriminatory Treatment of Public, Educational and Governmental Access Channels by Cable System Operators, 2019 Me. Laws 469 (codified at Me. Stat. tit. 30-A, §§ 3008(5), (7), 3010(5A), (5B), (5C)); *NCTA v. Frey*, 7 F.4th 1 (1st Cir. 2021) (Maine law upheld).

47. *See, e.g.*, City of Philadelphia Digital Discrimination Comments, at 20-21.

48. *See* Digital Discrimination Order.

49. *See, e.g.*, City of Oklahoma City et al. Comments, at 4-6, In re All-In Pricing for Cable and Satellite Television Service, FCC 24-29, MB Docket No. 23-203, <https://www.fcc.gov/ecfs/document/107312541918310/1> (July 31, 2023); City of Oklahoma City et al. Reply Comments, at 3-5, <https://www.fcc.gov/ecfs/document/108291549807734/1> (Aug. 29, 2023).

50. *See* In re All-In Pricing for Cable and Satellite Television Service, FCC 24-29, MB Docket No. 23-203 (Rel. March 19, 2024).

51. *See, e.g.*, City of Minneapolis Digital Opportunity Plan Comments to the Minnesota Office of Broadband Development (June 30, 2023).

52. *See* City of Philadelphia Digital

Discrimination Comments, at 7, NSCC Digital Discrimination Reply Comments, at 3.

53. Recommendations and Best Practices to Prevent Digital Discrimination and Promote Digital Equity Submitted to the Federal Communications Commission by the Working Groups of the Communications Equity and Diversity Council November 7, 2022, at 35 (<https://www.fcc.gov/sites/default/files/cedc-digital-discrimination-report-110722.pdf>).

54. *See, e.g.*, City of Philadelphia 621 Comments at 9; NATOA 621 Comments at 10.

55. Minn. H.F. No. 4182 (2024), <https://www.revisor.mn.gov/bills/bill.php?b=house&f=HF4182&ssn=0&y=2024>.

56. Minn. S.F. No. 4262 (2024), <https://www.revisor.mn.gov/bills/bill.php?f=S-F4262&y=2024&ssn=0&b=senate>

57. Minn. H.F. No. 4077 (2024) (Article 4, Sections 1-11), https://www.revisor.mn.gov/bills/text.php?number=HF4077&type=--bill&version=1&session=ls93&session_year=2024&session_number=0&format=pdf.

58. *See* notes 9 and 11 *supra*.

59. *See* City of McAllen, at ___, 2024 WL 4799325, *5 (Tex. Ct. App. Nov. 15, 2024) (consideration must be sufficient).

60. *See* notes 9 and 11 *supra*.

61. *See* City of McAllen, at ___, 2024 WL 4799325, *8 (Tex. Ct. App. Nov. 15, 2024).

62. *See* 47 U.S.C. § 151, note. The “taxes” prohibited in the ITFA “do[] not include any franchise fee or similar fee imposed by a State or local franchising authority, pursuant to [the Cable Act], or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934[,]” nor do “taxes” include “fee[s] imposed for a specific privilege, service, or benefit conferred” by a governmental entity, such as the privilege of using local

assets.

63. *See* Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Deployment, Declaratory Ruling and Report and Order, 33 FCC Rcd. 9088 (2018).

64. *See* In re: Section 621(A)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, 34 FCC Rcd. 6844 (2019); 47 CFR § 76.43 (Mixed-Use rule).

65. *Id.*

66. *City of Eugene v. FCC*, 998 F.3d 701, 710 (6th Cir. 2021).



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Federal lawmakers proposed mandatory rebates during cable TV blackouts

Matthew Keys

7–9 minutes



A baseball stadium. (Stock image via Pexels, Graphic by The Desk)

A team of federal lawmakers have proposed a measure that, if signed into law, would effectively require cable companies to issue refunds to customers if they remove channels during carriage disputes.

The bill, called the “Stop Sports Blackout Act,” is intended to curb the effects of disputes that result in cable and satellite operators dropping regional and national sports networks, though it would apply broadly to all types of channels.

On Friday, Representative Pat Ryan and Senator Chris Murphy said they were inspired to act after a recent programming dispute led Altice USA-owned Optimum TV to drop several channels owned by MSG Networks. The dispute, which continues today, means subscribers of Optimum TV are unable to access locally-televised games from the New York Rangers, New York Knicks, Brooklyn Nets and a few other sports franchises unless they switch to a different TV service or pay \$30 per month for the streaming version of MSG Networks, called MSG Plus, through the Gotham Sports app.

Disputes like the one involving Altice USA and MSG Networks have become more common over the years as the owners of broadcast and cable channels make multi-billion dollar investments in the pursuit of sports rights, then pass those costs on to advertisers and pay TV subscribers.

In many ways, the broadcasters have the leverage in contract negotiations, because existing federal copyright laws allow them to withhold their channels unless cable and satellite TV platforms pay for the rights to redistribute them. Congress permits the [Federal Communications Commission](#) (FCC) to enforce laws regarding distribution of channels on cable and satellite TV, and the FCC requires programmers and distributors to negotiate carriage of channels in good faith.

But “good faith” is an arbitrary and vague term that has seldom been defined, and there is no law that sets reasonable limits on how much broadcasters can charge for their channels. There are also few remedies for cable and satellite providers to provide alternative programming options to customers, since broadcasters typically have exclusivity in a particular area and the sole rights to certain sports and other programs.

The end result is that broadcasters can charge whatever they want for the redistribution of their channels on cable and satellite — and if cable and satellite companies refuse to pay, they lose the right to offer those channels to customers.

Over the past few years, some cable and satellite TV companies have offered voluntary rebates or unlocked access to other channels during carriage disputes. In 2004, Dish Network gave subscribers free access to HBO Family after pulling channels owned by Viacom Networks (now Paramount Global), including Nickelodeon. Two years ago, [DirecTV issued one-time bill credits](#) to customers who lost access to Nexstar Media Group-owned broadcast stations just before the start of the National Football League's (NFL) season, and again when the company was forced to [pull local TV stations owned by TEGNA](#) before the NFL playoffs.

But those acts are not required by law — they amount to a goodwill gesture to keep subscribers satisfied while all sides work toward a new distribution agreement. Altice USA has not offered bill credits to its customers; instead, the company has pushed Optimum TV subscribers to an offer that gives them [Fubo, a comparable streaming TV service, at a discounted rate for two months](#). Altice USA has also demanded MSG Networks issue refunds to Optimum TV customers that total \$125 million.

The measure proposed by Ryan and Murphy will do nothing to stop the trend of rising cable and satellite bills, or to reign in demands for higher distribution fees by broadcasters. Instead, it would instead require cable and satellite companies to issue immediate refunds to customers that offset the loss of carrying certain channels.

Nonetheless, Ryan and Murphy affirm their measure is a step in the right

direction because customers of Optimum TV and other cable companies engaged in disputes are paying for channels during blackouts that they are not receiving.

“It’s outrageous that millions of folks couldn’t watch the Knicks, Judy Justice, or dozens of other programs for weeks because of blackouts — and, it’s even more ridiculous that we’re all still paying for the right to stare at black screens,” Ryan said in a statement on Friday. “I don’t see why this is even a debate — cable companies simply should not be able to advertise and charge for services they are not providing.”

Murphy echoed similar sentiments, calling blackouts a “slap in the face to every customer paying their hard-earned money for TV shows they can’t even watch.”

“It’s ridiculous the rest of us get stuck in the crossfire of negotiations between cable and broadcast companies,” Murphy said on Friday. “Our bill is simple: if cable companies can’t provide the service you’re paying for, they owe you a refund.”

The measure was met with elation from some programmers, including MSG Networks, which applauded the two lawmakers for “standing up for their constituents.”

“We appreciate Senator Murphy and Congressman Ryan’s efforts to fight for sports fans who are stuck paying for content they aren’t receiving, while Altice pockets their money,” two separate MSG Networks officials said in identical statements to *The Desk*. “It’s time for Altice to do what’s right and agree to binding arbitration so that sports fans can again begin to watch games of their favorite teams.”

Officials within the cable and satellite industry say they agree that programming-related blackouts are a problem that is getting worse over time, but they said Ryan and Murphy’s bill do not adequately address the

root cause of the issue — the higher fees demanded by broadcasters in the first place.

“This bill gives billion-dollar broadcast corporations a complete free pass,” said Grant Spellmeyer, the CEO of [ACA Connects](#), an industry group that represents small and mid-size cable TV operators.

Spellmeyer continued: “If we don’t address the root problem with reforms to the retransmission consent regime, insatiable broadcasters will continue to abuse market power to extract higher fees, jack up prices and force blackouts.”

In a separate statement, the [American Television Alliance \(ATVA\)](#) said they agreed with the two federal lawmakers that something needed to be done to curb programming-related blackouts, but the measure — while well-intentioned — will cause more harm than good.

“This bill will only raise prices for consumers,” Hunter Wilson, a spokesperson for ATVA, said in a statement emailed to *The Desk*.

“Blackouts are the result of networks and other big programmers holding their channels for ransom to force pay-tv providers into higher-priced programming deals. Requiring pay-tv providers to pay rebates will only encourage big broadcasters to further increase prices at a time when retransmission consent fees are at record highs.”

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2024 Was Another Tough Year For Cable Television Industry

Brad Adgate

8–10 minutes



NBA Commissioner Adam Silver has cited cable cord cutting as a reason for a drop in ratings in ... [+] 2024-25. Beginning next season fewer games will air on cable TV and more games will be streamed (Photo by Stacy Revere/Getty Images)

Getty Images

Over the past decade the cable industry has been impacted by cord-

cutting and the emergence of streaming video, which has resulted in declining ratings and revenue. This trend continued in 2024 as some media companies addressed the financial challenges facing the once lucrative cable industry.

According to [Variety](#) citing Nielsen data, in 2024, there were only three cable networks that averaged more than one million viewers in prime time, Fox News, ESPN and MSNBC. They were also the only three cable networks to amass an average audience of over one million prime time viewers in 2023. By comparison, in 2014 when cord cutting was nascent, there were 19 cable networks that had surpassed the one million audience threshold.

With 2024 an election year among other newsworthy topics, cable news networks recorded strong increases in prime time viewing. None more so than Fox News. Once again, Fox News was the top-rated cable network among all channels. In 2024 the cable network averaged 2.47 million viewers, a healthy year-over-year increase of +30%. Only the four major English language broadcast networks delivered more primetime viewers.

MSNBC which averaged 1.26 million viewers and CNN which averaged 707,000 viewers also recorded year-over-year growth of +4% and +20%, respectively. Unlike Fox News, both news networks had a significant loss in audience post-Election. Newsmax, a smaller news channel, also saw a healthy jump in audience of +31% from 2023. Whereas the Nexstar-owned Newsnation was relatively flat from 2023 (-1%). In 2024, Fox News generated a larger average audience in primetime than MSNBC, CNN, Newsmax and Newsnation combined.

ESPN was the second most watched cable network of 2024 averaging 1.67 million viewers in primetime, a slight (-2%) falloff from 2023. ESPN's

audience delivery highlights the continued popularity of live premium sports with television viewers. While the network continues to add to its programming lineup such as the newly expanded 12-team college football playoff (CFP). There is anticipation ESPN will launch a direct-to-consumer service sometime in 2025.

Once again, the audience delivery for most broad-based entertainment networks continued their freefall in audience delivery. For example, TNT averaged 815,000 primetime viewers, a decline of -13% from 2023. After 40 seasons, the 2024-25 NBA season will be the last for TNT televising games. The new media rights agreement, finalized last July, has added NBC/Peacock and Prime Video while dropping TNT.

NBA Commissioner Adam Silver has cited declining cable trends for NBA's loss in audience this season. In 2014 when TNT last renewed a nine-year agreement to carry NBA games, the cable network had been averaging over two million prime time viewers for the entire year.

USA Network, which has added more sports to its programming schedule, averaged 673,000 primetime viewers, a slight -2% loss from 2023. In 2014 however, USA cable network had averaged nearly 2.2 million viewers in primetime. In addition, *WWE Raw*, which ranks among USA's top-rated programs in 2024, has moved to Netflix.

In 2024, a number of top tier cable network had year-over-year double-digit declines in primetime viewers, as viewers dropped cable and/or watched more content on streaming platforms. In 2024 HGTV, History, FX, AMC, Freeform (formerly ABC Family), Food, Lifetime, A&E, TLC and Discovery, all recorded double-digit year-over-year declines in primetime. All ten networks had averaged fewer than 700,000 viewers in 2024, compared to over one million viewers in 2014.

The loss in cable viewing is chronicled by Nielsen's monthly Gauge

Report. In the November 2024 report, cable TV accounted for 25.0% audience share among all viewers. By comparison, in November 2023 cable's audience share was 28.3%, in November 2022 cable accounted for an audience share of 31.8%

In 2024 the revenue loss from cable impacted their parent companies' earnings report. In August both Warner Bros. Discovery and Paramount Global announced they were taking a write down in the value of their cable networks. WBD announced a financial write down of \$9.12 billion, the following day Paramount Global announced a \$5.98 billion financial write down. These back-to-back announcements were an indication of the declining value of cable television.

Media companies' response to the dwindling value of the cable units continued. In November, Comcast announced they were spinning off most of their cable networks (with the exception of Bravo). The media company announced the launch of a new standalone company tentatively called SpinCo to house their cable networks (and other digital assets) as their value declines. WBD followed by announcing they would be separating their cable TV networks from their streaming and studio units with the possibility of selling them off.

Furthermore, a recent trend in the negotiations of carriage renewal fees between prominent pay-tv distributors is dropping "long tail" cable networks that have been a part of the "cable bundle" but subscribers do not watch. In the past two years both Charter and DirecTV, two of the largest pay-tv distributors, have successfully negotiated with Disney that resulted in breaking up the "cable bundle" and adding the option of subscribing to an ad supported streaming tier.

The one-time financially sound regional sports networks have also been impacted by cord-cutting. In November, the Diamond Sports Group, the

largest RSN in the U.S. emerged from bankruptcy protection after 20 months. Part of the restructuring included reducing the debt from about \$9 billion to \$200 million and a rebrand from Bally Sports to FanDuel Sports Network. In addition, DSG has partnered with Amazon to stream local sports on Prime Video. In October NBCU announced they would have their four RSN's available locally on Peacock.

Consumers cancelling their cable TV subscription has been accelerating. In 2022 the traditional pay-tv distributors had 4.9 million cancel their subscription, that figure increased to 5.4 million the following year. In the first three quarters of 2024 alone [an estimated 5.7 million](#) cable subscribers have dropped their pay-tv subscription. Nowadays a majority of nationally distributed ad supported cable networks are available in [fewer than 50%](#) of all TV households.

According to Media Dynamics, for the 2024-25 upfront ad marketplace, cable primetime commitments from marketers totaled [\\$9.065 billion](#), a drop-off of -4.8% compared to the 2023-24 upfront. Conversely, streaming video grew year-over-year by 35.3% totaling \$11.1 billion. It marked the first time streaming surpassed cable (and broadcast) television in an upfront. Among the reasons for the decline in ad support are declining penetration, an aging audience and pricing.

The decline in cable as a viewing option is not only not slowing down, it has been accelerating. David Zaslav CEO and president of Warner Bros. Discovery said, "Even two years ago, market valuations and prevailing conditions for legacy media companies were quite different than they are today."

For years the cable industry has benefitted from two strong revenue streams; subscriber fees and ad dollars. Both sources have been rapidly drying up as media companies continue to place a priority on their

streaming properties. In addition, as more live sports and news migrate to digital platforms, it will result in a further audience declines. As this trend continues in the not-too-distant future, the only cable boxes will be found in the Museum of Broadcasting.