

Testimony of Brian Knoblock, member of the Legislative Policy Committee of the Maine Community Media Association.

**In Support of LD 1967, An Act To Support Municipal Franchise Agreements
Committee on Energy, Utilities and Technology
Public Hearing: October 25, 2023**

Senator Lawrence, Representative Ziegler and members of the Committee on Energy, Utilities, and Technology.

I am Brian Knoblock a member of the Legislative Policy Committee of the Maine Community Media Association (MCMA). I am also an Independent Producer at the Portland Media Center (PMC) the Public Access TV station in Portland, Maine. I am offering testimony in support of LD 1967, "An Act To Support Municipal Franchise Agreements", sponsored by Representative Melanie Sachs of Freeport.

Please note:

On January 26, 2023 the Legislative Policy Committee of the Maine Municipal Association voted to support this bill, a change in their position from LD920 in the last session, reflecting the changes that have been made in response to concerns that were raised about the previous bill.

In addition, the MCMA has worked with the Public Utilities Commission and the Attorney General's Office and incorporated some suggested language in this bill addressing their concerns and defining their oversight roles in arbitrating Franchise Agreement disputes between a Video Service Provider and a municipality.

In my professional career I worked as a Producer and Assignment Manager/Foreign Editor at CBS News and Fox News Channel. I have also worked as a volunteer and staff member at Public Educational Government (PEG) Public Access stations in New Jersey and Portland for 20 years. For 10 years I was the Production Coordinator at the Portland Media Center.

As a news and Public Access producer, keeping the public informed about events - international, national and, especially, local - has always been my prime objective. As major out-of-state broadcast, print and social media companies continue to acquire smaller, local media outlets, the public has fewer and fewer options for obtaining news about their state, county and town. At many commercial TV stations in the U.S. the "local" news is actually produced hundreds, or even thousands, of miles away with little or no actual local reporting.

PEG stations provide us with local news and information about the towns we live in. They broadcast government and school meetings so the citizens can stay current about local government affairs and see how their tax dollars are being spent. The stations also provide programs produced by friends and neighbors that reflect the interests of the community. Public Access stations are the electronic Town Square and are a vital part of the communities they serve.

The national cable companies want to eliminate Public Access TV stations in order to sell the channel space to national broadcasters. They often ignore requirements in the contract they signed with the town (the Franchise Agreement) forcing the town government to choose between accepting the contract violation and spending their limited funds in a protracted legal battle - cable companies have deep pockets and town attorneys are not well-versed in cable TV law. Recently, on two occasions, Charter/Spectrum has challenged, unsuccessfully, Maine cable TV law in court. The Maine Attorney

General's office had to spend significant time and money to defend state laws in Federal Court. Towns cannot afford to take on that type of legal battle on their own.

LD 1967 requires that cable companies comply with the terms of their Franchise Agreement and, if they fail to comply, provides an oversight/arbitration mechanism within the PUC. The PUC would *not* regulate Video Service Providers as Public Utilities, a change from the previous bill.

It also creates a new definition, Video Service Provider, covering existing cable companies and new entities, who would be required to obtain a Franchise Agreement *only if* they provide defined video services via cable in the Public Right of Way *and* provide a video channel selection device or "app" None of the streaming services, such as Netflix, Hulu, Roku etc., own facilities in the Public Right of Way and would *not* be subject to the Franchise requirements of this bill. This bill could provide additional sources of revenue for municipalities as new types of service providers begin to offer video services via cables in the Public Right of Way.

This legislation is the result of extensive nationwide research and builds on proposals set forth in previous successful initiatives to provide increased consumer protections and regulatory oversight of the Video Service Provider industry at the State and local levels. It also addresses concerns raised by the governor, and others, regarding LD 920 in the previous legislative session.

According to a 2020 Congressional Research Service report, 27 states exercise full or partial regulatory control over state/state-wide cable TV franchises, which is *not* proposed in this bill. Three other states have oversight of Municipal Franchises and seven states specify the terms and conditions for cable TV franchises but have no enforcement function. In total, 36 states (72%) have some level of state oversight of cable TV franchises.

The Maine PUC arbitration/mediation proposed in this bill would not make Maine an "oversight outlier" –as has been claimed - and is rather modest in comparison to the state level cable laws in the rest of the country. (<https://crsreports.congress.gov/product/pdf/R/R46077>)

LD 1967 will provide the following benefits to towns and their citizens:

1. Maintain and strengthen Home Rule, with municipalities retaining their decision to charge franchise fees but making the fees payable *quarterly*, not annually, improving a town's cash flow and potentially providing additional revenue from new VSPs
2. Provide a *binding third-party arbitration* mechanism within the PUC *only when* a municipality requests assistance in resolving a Franchise Agreement dispute with a Video Service Provider rather than engage in costly litigation. *The PUC would not resolve consumer complaints, a change from the previous, bill but would facilitate the dispute resolution process.*
3. Level the playing field by requiring all Video Service Providers (VSP), including new entities, to carry public, educational and governmental access channels on the basic tier and in HD (High Definition) if requested, on the provider's basic cable or video service offerings, tiers or apps and in the same channel location as broadcast stations.
4. Eliminate mandatory preconditions for implementing the 15 residences per linear strand mile and define how the strand mile is measured making broadband expansion easier. It also closes a loophole to ensure compliance with the 15 residences per mile requirement of State Law. Title 30A §3008, Para 5B for the extension of video services to new areas. *It will not have any impact on the Governor's broadband initiative.*
5. Clarify the responsibility of a Video Service Provider with respect to the costs associated with providing, maintaining and upgrading Public, Educational and Government facility transmission equipment, bringing them into compliance with existing State Law. For 40 years the cable companies have said the equipment was their property and, in fact, *prohibited* PEG station staff from even touching the equipment. They owned, repaired and replaced the equipment.

Recently the cable companies have attempted to transfer these costs to the Public Access Station and the town by saying that replacing or upgrading the equipment is the responsibility of the station. This prevents the PEG station from moving to High Definition due to the high costs demanded by the cable companies or even replacing equipment that no longer functions or is outdated – such as Standard Definition equipment, which is no longer available. In addition, the cable companies have required that the PEG station pay to upgrade the transmission line from the station to the cable company to a digital data line, and pay a monthly fee for that circuit, at a cost thousands of dollars per year. This line has been the property and responsibility of the cable companies for over four decades.

6. Add definitions for the terms "facility support transmission equipment"; "public, educational and governmental facility equipment"; "public, educational and governmental programming," public, educational and governmental signal", "applications" and "Video Service Provider."

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I believe this bill is essential for the survival of Public Access stations in Maine.

Franchise fees are not something "given" to towns, as cable companies have claimed, They are agreed-to contractual payments made to a town for using the telephone poles that are located in the Public Right of Way, which is town property. It is the same as charging a commercial company rent to use any other town facility such as a public park or an auditorium.

New entities are streaming video to their customers on wires run in the Public Right of Way and should be required to obtain a Franchise Agreement, just as existing cable TV companies are. This could be a new and important revenue source for Maine's cities and towns and ensures that all Video Service Providers – cable or streaming - are treated equally.

Charter and Comcast are huge corporations with large legal staffs that can overwhelm town managers and attorneys who are not well versed in Cable TV law, only dealing with it every 10 years at franchise renewal time. This bill provides state-level assistance, *not regulation*, through the PUC by resolving disputes through *third-party binding arbitration* ensuring that Public Access TV can continue to connect citizens to their local government, and each other. The MMA, PUC & AG support this bill.

I urge you to vote in favor of this important consumer protection bill so that the citizens of Maine will continue to have access to local news, information and entertainment from their local Public Access station.

Brian Knoblock. Falmouth, Maine