

**Testimony of W Maurice Amaral - Cable Access Manager  
South Portland Community Television**

**In Support of LD-1967, An Act To Support Municipal Franchise Agreements  
Committee on Energy, Utilities and Technology**

**10.25.2023**

Senator Lawrence, Representative Ziegler and members of the Committee,

I write to you today in support of LD-1967. I am speaking from two perspectives. As a media producer whose role as a local access cable TV station manager is to ensure clear municipal communication between the City of South Portland and its residents, and as a media consumer who subscribes to various video delivery services.

Like death and taxes, certain things are inevitable. In the realm of communication, changes in technology inevitably create unforeseen consequences down the road. These changes are experienced by everyone who uses the technology. From the demise of video stores that were replaced by online streaming, to the fractured national dialog enabled by social media platforms, we have all collectively participated in a great media experiment over the past decade. The laws that govern these technologies are in flux, hinging on definitions that can be described as “archaic” in the sense that often they were written before the technologies they are tasked with regulating began to exist in their current forms.

Communication companies – narrowly defined in this bill as Video Service Providers (VSPs)- seek competitive advantages wherever they can be found. Generally this looks like leveraging de-regulation whenever possible. In an ideal world, the regulatory environment would be the same for every player delivering the same or similar type of service to its customers. In media, this is not the case. Legislators who “look under the hood” of US communication policy face an uphill slog, trying to parse the meaning of specialized jargon describing underlying technologies behind the products and services that VSPs sell to their constituents. News, information, entertainment, sports, etc. may be the content delivered to consumers, but the various topologies used in this process are each governed by their own subset of rules as defined by the US Telecommunications Act.

It is my opinion that in our time, this arrangement has begun to fall apart. The clarity that existed when there were fewer delivery options (primarily: radio, broadcast TV, cable TV, satellite and telephone) is a thing of the past. Cellular technology, streaming and video on demand are all new entrants into a crowded marketplace of content delivery. It is the responsibility of legislators at both the state and federal level to address this “new normal” by gathering the facts and making informed policy that weighs the pros and cons of both consumer and industry interests.

LD-1967 has much to recommend it:

- Improved build-out requirements to encourage VSPs that also act as Internet Service Providers (ISPs) to extend their broadband reach further into under served rural areas.
- State-level arbitration/mediation language that allows for cities and towns to have a resource in Augusta when they encounter issues with franchise contracts.

- Language that encourages the adoption of high definition television equipment by local access cable TV stations and clarifies how that process will occur.
- Does not impact Home Rule, thus ensuring that Maine's cities and towns will continue to be free to act independently with regard to future franchise negotiations. This is important if only due to the dollar figures in play - which can reach into the millions over the life of a contract.
- Introduces the term Video Service Provider to better position the state to be “future proof” with regard to its ability to exercise regulatory authority in light of the continuing evolution of video delivery technologies. It is important to note that this bill seeks only to regulate companies that have physical delivery infrastructure in the Public Rights of Way (PROW) and thus is in compliance with current interpretation of federal law.

The big picture:

- A few days ago 20 US Senators petitioned the Federal Communications Commission (FCC) to regulate online streaming services as if they were traditional Cable Operators (COs). This action was undertaken after hearing complaints from local broadcasters who feel that the content they produce is being unfairly distributed via these online platforms. LD-1967's VSP definition comports with this because it defines a service - not the technology used to deliver it.
- Recently a federal court ruled that the City of St Louis cannot regulate online streamers as COs. This bill comports with this ruling because it is narrowly defined based on use of the PROW.
- There are many other examples, from other states, of bills before legislatures and court rulings. There is saber-rattling from the Supreme Court and the deployment of new technologies, such as Comcast/Charter's launch of Xumo – a device which appears to conflate traditional cable with streaming technology – hopefully not in an attempt to do an end-run around regulations. Time will tell.

I provide these examples from outside of Maine to highlight the importance of getting this legislation passed with full due process. Maine cannot afford to look the other way when it comes to engaging with media technology at the policy level because it is bound (inextricably?) with broadband. The state has taken positive steps in this direction with the creation of the Maine Connectivity Authority (MCA) and with the focus on providing opportunities for rural and economically disadvantaged populations to access the Internet during the pandemic. LD-1967 aligns with these priorities and positions Maine to better handle the inevitable changes in media delivery in an uncertain future.

Thank you for your consideration of my perspective. If you would like an explanation in greater depth on the above topics, I can be reached through the City of South Portland's website at [www.southportland.org](http://www.southportland.org).

Good luck in your deliberations!

Sincerely,

W. Maurice Amaral  
Manager, SPC-TV