

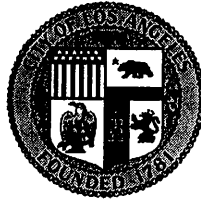
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November 16, 2006

REF: SPP-867-06

Honorable Members of the City Council  
City of Los Angeles  
Room 395, City Hall  
Los Angeles, CA 90012

Attention: Information Technology and General Services Committee

Subject: **IMPACT OF AB 2987 UPON THE CITY'S CONSUMER SERVICES STANDARDS AND PEG OPERATIONS EFFECTIVE JANUARY 1, 2007**

In response to a request on October 31, 2006 from the Information Technology and General Services Committee meeting, the Information Technology Agency (ITA) provides the following informational report regarding the impact of AB 2987 upon the City's regulatory oversight of the state-issued franchise holders and the City's incumbent cable operators concerning consumer services and Public, Educational and Governmental access (PEG access) operations. In addition, ITA submits this report in support of the City Attorney's report and proposed ordinances filed concurrently herewith to the City Council's Information Technology and General Services Committee and Budget and Finance Committee. (See CA Report No. RO6-0409 dated November 14, 2006.)

Commencing January 2, 2008, the California Public Utilities Commission (PUC) will become the sole franchising authority for state-issued video service franchises. However, the City will continue to provide regulatory oversight over current and future video service franchisees.

### EXECUTIVE SUMMARY

ITA provides the following information and recommendations:

- The City's authority over a state-issued franchise holder regarding consumer services standards will be limited to enforcing federal and state consumer services standards which are weaker than the City's existing consumer service standards.

- Because the City's only method for addressing violations of federal and state consumer services standards is the imposition of penalties, ITA recommends that the Board of Information Technology Commissioners (BITC) provide recommendations to the Mayor and Council regarding proposed legislation to amend AB 2987 to provide stronger and more consumer friendly enforceable state consumer service standards.
- The existing Public access studios and channel carriage provided by Time Warner and Cox (incumbent cable operators) will continue operation through January 1, 2009 where after the City will assume responsibility for PEG access.
- The City is entitled to claim a 1% gross revenue PEG access fee by a state-issued franchise holder, in addition to the 5% gross revenue franchise fee.
- That BITC and the Municipal Access Policy Board (MAPB) conduct hearing proceedings to gather information from the public and affected stakeholders regarding future PEG operating models.
- That ITA and BITC issue recommendations to the Mayor and City Council regarding the proposal of a new PEG operations and services model for the City.

## **BACKGROUND**

The City has issued cable franchises and regulated the City's cable television operators for over thirty years. Two of the City's key operational functions in the exercise of its regulatory authority have been enforcing City-issued consumer service standards and ensuring the provision of PEG access for the City and its residents.

ITA currently administers and provides regulatory oversight to the City's three incumbent cable television operators pursuant to fourteen City-issued cable television franchises. Time Warner operates 12 of the fourteen franchises (approximately 592,000 subscribers), while Cox Communications (approximately 9,000 subscribers) and Charter Communications (approximately 60 subscribers) operate one franchise each in the San Pedro and Pacific Palisades areas, respectively, in the City.

The City's 2005 amended consumer service standards will continue to be enforceable over the incumbent cable television operators until January 2, 2008 under the existing franchises or until the incumbent cable television operators are granted a state-issued franchise by the PUC, whichever is later. Pursuant to AB 2987, the City's authority over a state-issued franchise holder and consumer service standards is solely limited to enforcing federal and state consumer standards.

Under the City's existing franchises, the incumbent cable operators currently provide City-wide connections for Channel 35 ([LA CityView35] the City's government channel) and Channel 36 (an interconnected educational access channel managed by the Los Angeles Cable Television Access Corporation [LACTAC]), a non-profit entity). With the exception of three City franchise areas, the incumbent cable operators also operate and manage one additional local public access channel and one local educational access channel in each cable franchise area. Under AB 2987 the incumbent cable operators

must provide the Public access studios, services and channel carriage that they are currently providing until January 1, 2009, unless the City issues a mandate to the incumbent cable television operators that they seek a state-issued franchise before that date.

### **The Current Consumer Services Regulatory Operations of the City and the City's Regulatory Authority Under AB 2987**

The Cable Television Division's Consumer Services Section of ITA currently enforces the City-issued consumer services standards. On May 13, 2005, BITC enacted by resolution, the updated and current version of the City's original (1993) cable television consumer service standards. The City's 2005 consumer service standards improved or provided new consumer standards in comparison to existing federal and state consumer service standards in the areas of subscriber communications with the incumbent cable operators and required specified accommodations for persons with disabilities.

In addition, the 2005 City-amended consumer service standards addressed the local customer experience by encouraging incumbent cable operators to provide local call centers and foreign language capability where appropriate and adding additional requirements and billing credits when installation service calls are not made properly and on time. A comparison of differences in the City-issued consumer services standards with the federal and state consumer standards is summarized in the attachment provided. [See Attachment A – Consumer Services Standards Comparison.]

In 2005, ITA processed more than 4,000 cable television complaints and inquiries from approximately 700 cable television subscribers. Based on ITA's past experiences, a higher volume of complaints is expected by ITA during the construction of a state-issued franchise holder's plant and facilities, after the commencement of video services by the state-issued franchise holders and until that state-issued franchise holder has completed its build out and worked out technical and service issues.

AB 2987 allows the City to impose a schedule of escalating penalties upon a state-issued franchise holder for violations of federal and state consumer service standards only, arising from complaints received by the City, as set forth in the City Attorney's Report. Once the City adopts the City Attorney's proposed ordinance, BITC will be responsible for enforcing the weaker consumer standards as provided for under federal and state law, in contrast to the 2005 City-issued consumer services standards. If the current state consumer standards are amended by the state legislature to mirror the City-issued consumer services standards, the City will be able to better serve its video television subscribers in the future.

### **The Current PEG Access Operations of the City, the City's Regulatory Authority Under AB 2987 and ITA's Recommendations**

The City's current PEG access operations and services are provided by several entities. The City-wide Government access channel is provided by LA CityView 35. The City-wide Educational access channel is provided by LACTAC, a non-profit entity. The local Public and Educational access channels are operated by the incumbent cable operators. The incumbent cable operators are required to provide channel carriage for each of these channels under the City-issued franchises. **Under AB 2987 the City is entitled to the continuation of the current system of public access operations by the incumbent cable operators through January 1, 2009. The City will assume responsibility for public access operations unless a mutual extension of PEG access operations is agreed to by the incumbent cable operators.**

Pursuant to AB 2987, the City is entitled to the payment of a 1% gross revenue PEG fee by a state-issued franchise holder in addition to the required 5% gross revenue franchise fee. If the City's incumbent cable television operators are granted a state-issued franchise, a 1% gross revenue PEG fee will also be due from those operators. The City may be limited in its use of the 1% PEG fee to the funding of the capital costs of PEG access pursuant to federal law. The City must now seek opportunities to adopt financially feasible ways of providing PEG access operations and services in meeting the City's needs for community-based communications.

On December 23, 2003, ITA submitted to the Mayor and City Council its Cable Television Franchise Renewal Needs Assessment Report that highlighted the needs and interests of thousands of the City's citizens. ITA discovered through this process that many citizens desired a connection to City Government, a voice in the Public access process and programming that met the local needs of their neighborhood. Many viewers of Public Access programming were concerned with adult content and wanted to be assured that their voices were heard on this subject.

Additionally, it is important to note that with the ever-evolving technology changes that video services providers implement, the City will eventually need to convert all analog assets (television equipment) to the digital platform to conform to modern cablecast standards. Such a renovation will ultimately be costly for the City as it pertains to upgrading the Government access channel, LA CityView 35, to the digital platform. In addition, PEG access interconnection systems of the state-issued franchise holders and the incumbent cable operators, along with programming technology compatibility issues may present additional financial challenges in the future.

With these concerns in mind, and considering what other inventive cities are choosing to do with their PEG resources, ITA is recommending that BITC, MAPB and ITA develop proposals for future PEG access addressing: the allocation of the one percent (1%) PEG franchise fee revenue; the provision of community and viewer focused PEG access services; and, the City's retention of as many PEG channels as necessary to address the current and future needs of the citizens of Los Angeles.

## RECOMMENDATION

That ITA is instructed to report back to City Council regarding:

1. BITC's recommendations to the Mayor and Council regarding proposed legislation to amend AB 2987 to provide stronger and more consumer friendly enforceable state consumer service standards in 120 days; and
2. ITA, BITC and MAPB, public hearing findings regarding potential future PEG operating models for the City along with recommendations to the Mayor and City Council concerning a proposed new PEG operations and services model for the City in 180 days.

If you have any questions, please feel free to call me or Mark Wolf at (213) 978-3311.

Respectfully submitted,



Ken Simmons  
Interim General Manager

Attachment

cc: Honorable Antonio R. Villaraigosa  
Robin Kramer, Mayor's Office  
Marcus Allen, Mayor's Office  
Rockard J. Delgadillo, City Attorney  
Lonnie Eldridge, Office of the City Attorney  
Ellen Sandt, Assistant City Administrative Officer  
Cynthia Ruiz, Board of Public Works  
Board of Information Technology Commissioners  
Gary Moore, Bureau of Engineering  
Gerry Miller, Chief Legislative Analyst  
Roy Morales, CLA  
Lynne Ozawa, CLA  
Lemuel Paco, Bureau of Engineering  
Mark Wolf, ITA  
Agnes Lung-Tam, ITA  
William Imperial, ITA

**Attachment A**

<b>Consumer Services Standards Comparison</b>		
<i>Federal</i>	<i>State</i>	<i>City of LA</i>
<b>TELEPHONE AND OFFICE AVAILABILITY</b>		
Establishes minimum hours of operation; telephone response time (30 sec); wait time; answering machine (IVR); compliance provision standard; maintenance of local or toll-free telephone number	Establishes days of operation and maintenance of local or toll free telephone number	Establishes IVR protocol; Supervisor availability; Maintenance of Telecommunication Device for hearing impaired; <b>Compliance provisions reported to City; Local Customer Service Centers;</b> Demographic friendly (i.e. foreign language capability)
<b>ACCOMMODATIONS FOR PERSONS WITH DISABILITIES</b>		
No requirements	No requirements	Provides for maximum accommodations for persons with disabilities, including access to facilities and provision of remote control; and rental and/or purchase of equipment to facilitate reception of service by hearing impaired
<b>EMPLOYEE/CONTRACTOR IDENTIFICATION</b>		
No requirements	Provides that employees / contractors coming into contact outside of office must be clearly identified as associated with video provider; AB 2987 requires background checks for its employees entering customers' premises	Vehicles of provider / contractors clearly identified with the name of the company; Employees / Contractors, upon request, provide own true name or company approved name (or Number); Employee / contractor must pass detailed criminal background check

**Attachment A**

<b>Consumer Services Standards Comparison (continued)</b>		
<i>Federal</i>	<i>State</i>	<i>City of LA</i>
<b>INSTALLATIONS</b>		
Established 125 feet as standard installation; Installation performed within 7 days of request; Four hour appointment window	Required company to establish installation procedures; Appointments occur within the FCC 4 hour appointment window	Standard installation 150 feet; requires appropriate grounding; television set adjusted to receive service and instructions provided (in foreign language as appropriate) on use of services; provides automatic credit of \$25 for missed appointments and rescheduled appointment has a 2 hour window; must acknowledge request within 24 hours
<b>SERVICE INTERRUPTIONS</b>		
Required to begin work on Service Interruptions promptly, no later than 24 hours after it becomes known	Required to respond to Service Interruptions promptly, no later than 24 hours after it becomes known; response is defined as a company representative arriving at the outage location and beginning to resolve the problem	Company must notify the City of any significant system outage or Service Interruption; notify subscribers of planned service interruptions; company is required to provide automatic credit for outages of 4 hours or more affecting 100 or more subscribers and upon request for less than 100 subscribers
<b>SERVICE APPOINTMENTS</b>		
Four hour appointment window; Company cannot cancel appointment after close of business the previous day; if Company cannot keep appointment as scheduled Customer is to be notified and the appointment rescheduled at the customer's convenience	Four hour appointment window	Provides automatic credit of \$25 for missed appointments and rescheduled appointment has a 2 hour window; Company is required to make documented contact with subscriber prior to appointment and when appointment cannot be met

**Attachment A**

<b>Consumer Services Standards Comparison (continued)</b>		
<i>Federal</i>	<i>State</i>	<i>City of LA</i>
<b>SUBSCRIBER COMMUNICATIONS</b>		
Establishes 30 day written notification window to subscriber and franchise authority for changes in programming and rates; notice is to state precise amount of any rate change and include explanation	Establishes 30 day written notification window to subscriber and franchise authority for changes in programming and rates; annual notice describing services and contact information of operator, and description of rights and remedies	Company must submit customer notification for review 15 days prior to customer notification except where change is a discount to subscriber; requires 7-day subscriber notification of construction; encourage foreign language communication as appropriate; requires specific information be made available to subscriber through multiple means
<b>SUBSCRIBER SERVICE CHANGES/DISCONNECTION</b>		
Subscriber must be notified of any charges for changes in service	Not required	Subscriber has the right to change service at any time and have it take effect immediately; subscriber cannot be charged for disconnection of service