

## 2023 JAG Conference Legislative Session Recap & the Protecting Community Television Act

by Dave Garb, Legislative Committee Chair

During our annual JAG Conference last month, we held a special session that recapped the latest news from Capitol Hill and what it all means to New Jersey municipalities and PEG/Access stations.

Our panelists, myself, Mike Wassenaar, President of the ACM, Alliance for Community Media and Mike Lynch, Legislative & Regulatory Affairs Director, NATOA, the National Association of Telecommunications Officers and Advisors, mainly focused on one very important subject, the federal *Protecting Community Television Acts*.

From this forum, it became obvious that our audience was not up to speed on why this legislation needs to be acted upon and what could be the ramifications if they are not. We explained all the details about it during the session, but I would like to once again give the background on what has been going on and why support of these bills is crucial.

### From NATOA:

- On August 2, 2019, the FCC released a Third Report and Order interpreting provisions of the federal Cable Act. This Order allows cable operators to deduct from franchise fees the fair market value of cable franchise requirements, with limited exceptions, and largely preempts states and local governments from regulating the non-cable services and equipment of franchised cable operators, including their Wi-Fi and small cells equipment. This order defines “in-kind, cable-related contributions” to include “any non-monetary contributions related to the provision of cable services provided by cable operators as a condition or requirement of a local franchise, including but not limited to free or discounted cable service to public buildings, costs in support of PEG access other than capital costs, and costs attributable to the construction of I-Nets.

### From The ACM:

- The FCC Franchise Fee Order redefined the federal Cable Act’s 5% franchise fee cap to include the value of most non-monetary franchise obligations as franchise fees. This change allows cable companies to reduce what they pay for the use of public property and rights-of-way. These Protecting Community Television Acts (S 340/HR 907) correct this error by clarifying that franchise fees are only monetary. The Cable Act protects the rights of a local community to charge cable companies a five (5%) percent franchise fee and to meet community needs and interests, such as providing public, educational and governmental channel capacity. Contrary to industry practices that date to the 1980s, the FCC’s actions could result in reducing cable operators’ monetary compensation to towns and municipalities that wish to communicate with residents through community television.

**The Identical Protecting Community Television Acts**, S 340, authored by Senator Edward Markey (MA) and Tammy Baldwin (WI), and HR 907, authored by Representative Anna Eshoo (CA), were reintroduced in Congress on February 9th of this year. These acts clarify that only monetary payments, not non-monetary franchise obligations, qualify as Cable Act franchise fees and are subject to a fee cap.

Without these acts passed into law, cable operators could create fees to drain away municipal revenues and pressure municipalities to give up or reduce the staff at their PEG channels. It could come down to a choice

between franchise fees or communicating with residents through community media that provide Americans with local (transparent) civic, public safety and public health content.

When the *Protecting Community Television Acts*, were first introduced during the 2021-2022 Congressional Session, Representatives Donald Payne (10th District) and Bonnie Watson Coleman (12th District), led the charge by co-sponsoring it at that time.

This time around, New Jersey's U.S. Senator Corey Booker learned about our concerns from the FCC's Order and the detriment it could cause to all of New Jersey's municipalities. This interest was first sparked by a visit I had, along with Mike Wassenaar, to his Washington DC office this past April.

More recently, this spark was relit when Beatrice Moskowitz, Vice Chair of the Middlesex County Democrats, working with JAG's Managing Director, Rich Desimone, made it possible for Senator Booker's office to take a much closer look into this act, as well as an interest in our conference. So much so, that Senator Booker sent his Press Secretary, Minjae Park, to attend our conference and find out first-hand what the issues were, what the act does, and also, what JAG was all about.

I am very happy to announce to our entire JAG community that for the 2023-2024 Congressional Session, Senator Corey Booker has become the first Federal Legislator from New Jersey to co-sponsor the *Protecting Community Television Act*. JAG thanks Ms. Moskowitz for her assistance.

Our hope is that we can convey the importance of supporting both of these companion acts to all of our New Jersey members of Congress, so that every community can continue to have their specific and transparent information flow to their residents for their benefit, and for the benefit of all the citizens of our great State.

**JAG (Jersey Access Group) is an organization that advocates, promotes, and preserves the right to media production, distribution, civic engagement, and education in support of diverse community voices, through Public, Educational and Government access facilities and other forms of media.**

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