



Legislative Update

A 501c3 organization founded in 2001

Your Municipal Communications Resource

August 2024

Volume 3 Issue 8

News from Trenton & Washington, DC

by Dave Garb, Legislative Committee Chair

As the summer slowly winds down, movement down in our capital is in full swing and the Legislative Committee is working hard to stay on top of the latest developments.

From NATOA:

A few weeks ago the FCC released two items that deals with closed captioning. The first one, Docket No. 12-108, requires device manufacturers and Multichannel Video Programming Distributors make closed captioning display settings “readily accessible” to individuals who are deaf or hard of hearing.

The second one, Docket No. 05-231, will be of great importance to PEG operators. This proposal would exempt certain video programming providers from its closed captioning registration and certification requirements if they provide programming to public, educational, and governmental access channels (PEG) or to non-broadcast networks for distribution by a cable operator or other MVPD if the PEG channels or the network are exempt from or have certified compliance with the captioning rules.

Nearly 8 years ago, the Alliance for Community Media filed a petition in this matter requesting that the closed captioning registration and certification requirements be waived for program producers that provide programs exclusively over PEG channels. At that time, NATOA and a number of communities and access organizations supported ACM's petition.

ACM Rational in 2016 *Although PEG programming is not categorically exempt from captioning, ACM states that the vast majority of PEG channels fall within one or more of the Commission's closed captioning exemption categories, e.g., because the channel produces annual revenue less than \$3,000,000. Therefore, ACM reasons, requiring PEG programmers to register and certify would be “needless” if they are exclusively distributing programs on channels that are exempt from captioning under the Commission's rules. According to ACM, more than 1.2 million volunteers and more than 250,000 community groups provide PEG programming in local communities across the United States. These include “ordinary citizens and organizations—Cub Scouts, gospel choirs, political candidates, and community groups of every possible type.” Requiring each PEG program producer to register and certify compliance for its video programming on channels that are themselves exempt, ACM argues, would impose a significant and unnecessary burden on such programmers and needlessly clutter the Commission's registration system.*

The FCC published a Final Rule in the Federal Register on August 23, 2016 that imposed new reporting requirements on public, educational and governmental access programming with respect to the closed captioning of video programming on television. These obligations included:

- (1) New requirements to certify compliance with or exemption from the FCC's closed captioning rules;
- (2) Introduction of a “burden-shifting” model for the resolution of complaints about closed captioning; and
- (3) Introduction of a new “Video Programmer Registration” system in which PEG access stations will have to provide contact information into the FCC's website.

The Alliance for Community Media, the national association of PEG programmers and stations, filed a *Petition for Waiver* from the new reporting rules for all PEG access programmers. The waiver sought for video programming producers would exempt programmers that are not PEG access stations from both the compliance certification and the registration requirement. The petition for waiver didn't seek to change compliance certification and registration requirements for PEG stations so much as it is seeking an exemption

for those who produce.

You can read the recent Further Notice of Proposed Rulemaking on Closed Captioning of Video Programming Telecommunications for the Deaf and Hard of Hearing Petition, CG Docket No#: 05-231, at: <https://docs.fcc.gov/public/attachments/FCC-24-80A1.pdf>.

What will this exactly mean to PEG if this decision passes is still to be determined. There is still the DOJ's ruling from this past April that states we all will need to be captioning in the very near future. So be ready for a flood of possibilities.

In the meantime, at the JAG conference this past May, we held a session on the DOJ's ruling Titled: [ADA Compliance-Updates on the DOJ Rulings and Closed Captioning for Municipal Websites and PEG Channels](#) It relates what we must start preparing for in the very near future. Either way it turns out, start budgeting for it **now!!**

From the NTIA - National Telecommunications and Information Administration:

The NTIA Notice of Funding Opportunity (**NOFO**) on the Digital Equity Competitive Grant Program (DECGP) is out!

Congress and President Biden have designated around \$90 billion in funding—spread across a plethora of initiatives through the Infrastructure Act (IIJA) and American Rescue Plan Act (ARPA) — to close the digital divide. On July 24, the federal government rolled out one of those programs. NTIA announced that more than \$910 million is now available under the Digital Equity Act's Competitive Grant Program which is part of Biden's "Internet for All" initiative.

From NATOA:

NATOA believes that the NTIA is interested in multi-jurisdictional, multi-state projects. Our member communities and PEG access centers are uniquely positioned to submit a coalition grant application. The mission of our PEG operations and cable departments has always been to outreach to the disenfranchised. PEG centers already provide training and programming for Seniors, Veterans, People Living with Disabilities, rural residents, low-income residents, ethnic and linguistic minorities. Our collective experience as local Public Educational and Government (PEG) Access organizations and local government cable programs has us uniquely qualified to address the needs of the unserved and under-served in our communities. We've been doing it for decades for cable and broadband! PEG centers are uniquely positioned to offer Digital Equity & Inclusion activities for "Covered Populations."

Who are considered "Covered Populations"?

As defined in Section I.C. of the **NOFO**, Covered Populations are:

1. Individuals who live in covered households (<=150% of poverty).
2. Aging individuals (60 and above).
3. Incarcerated individuals, other than individuals who are incarcerated in a Federal correctional facility.
4. Veterans.
5. Individuals with disabilities.
6. Individuals with a language barrier, including individuals who are English learners; and have low levels of literacy.
7. Individuals who are members of a racial or ethnic minority group.
8. Individuals who primarily reside in a rural area.

The Digital Equity Competitive Grant Program is a \$1.25 billion grant program for five years to implement digital equity projects. [Building Your Digital Equity Capacity](#) Indeed, those whom the Digital Equity Act describes as Covered Populations are what we know to be our constituents, our audience.

We know that many PEG centers already pursue training opportunities for their communities and offer their public access centers as training centers for a/v editing, digital programming production, online video and social media video production.

Don't look now, but you're already running a "public access computing center!" The alignment of your current mission to one that addresses Digital Inclusion is a modest step forward. As part of a proposal you could add:

1. Training programs similar to OATS or TGH in participating communities.
2. Video-delivered trainings.
3. Gov channel programming for outreach, assistance, etc.
4. All PEG channels – creation on video content
5. Grassroots outreach?
6. Local gov staff training as digital navigators.

- 7. PEG centers as training as digital navigators.
- 8. Local solutions are the best solutions...
- 9. Covered populations
- 10. Target smaller communities, as well.
- 11. A local replacement to the Affordable Connectivity Program (ACP) ?

Because of the importance of this grant program and how it could help our individual communities, NATOA is putting forth a Coalition to ask for a portion of this money for those PEG stations in need and who meet any of the requirements. In order for you to be in consideration, NATOA has as created [Special Application, to be a part of this Coalition.](#)

This grant program has a fast deadline and if anyone is interested, you must act now. For more information on this grant opportunity please visit: [Digital Equity Competitive Grant Program.](#)

This grant program needs a quick turnaround for anyone is interested in attempting to acquire a portion of this grant. More information on this program will be coming to you shortly.

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.

Learn more about how JAG can assist you.

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