



# Legislative Update

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## News from Trenton & Washington, DC

by Dave Garb, Legislative Committee Chair

Because of its importance, I am going to bring up an article that we commented on last month. It is about the FCC's Docket No. 05-231 \*Closed Captioning of Video Programming Telecommunications for the Deaf and Hard of Hearing, Inc. Petition for Rulemaking\*.

### From NATOA:

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>.

If anyone in the PEG community wishes to make their voices heard on this matter, we have a deadline of October 1, 2024 to comment on Docket No. 05-231.

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!!**

I would also like to bring up another important story that JAG has been following for over a year. It has to do with the threat from HR3557.

### **From ACM:**

Bill HR3557 is misnamed and promotes the ability of corporations to break or alter agreements to provide cable and broadband in communities like ours. These cable agreements lie at the heart of our ability to receive funding in order to operate community television channels, teach production and communication skills, and create original content that represents the diversity and interests of our community.

Recently the wireless and cable industries have called on the House leadership to include the language under the guise of our national economic prosperity as well as its future broadband growth.

However, inclusion of HR3557 in any funding bills would fundamentally alter the power of our local communities to negotiate with corporations and would threaten the future of the over 1,600 organizations throughout the US that operate Public Educational and Government (PEG) access channels.

JAG urges all of our members in the House of Representatives to ensure that Public Educational and Government (PEG) Access media organizations like ours and others throughout the United States will continue to serve local residents by not including language from HR3557 (American Broadband Deployment Act) in any funding resolutions this fall.

HR 3557 is not a bi-partisan effort and was passed out of Committee with no testimony from local and state governments, which represent legitimate interests of residents and cable and broadband consumers throughout the country. The Bill's promoters talk of clearing "regulatory underbrush" to ensure that broadband is extended to all areas of the country. And yet, that "underbrush" ensures the rights of all communities – rural, suburban or urban - are respected when negotiating with corporate interests, and that communities with little power have a place at the bargaining table, and a voice in the media.

### **Opposition to HR3557 Video from JAG**

JAG knows that our New Jersey Representatives appreciate the work that our organizations do to promote democracy, transparency, and culture at the local level. We can only do this community media work because of the rights that HR 3557 is attempting to eliminate.

**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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