

News from Trenton & Washington, DC

by Dave Garb, Legislative Committee Chair

Here is an additional update to the threat of HR 3557. A couple weeks ago, the bi-partisan national organizations of local government officials National League of Cities (NLC), the U.S. Conference of Mayors (USCM), the National Association of Counties (NACo) and the National Association of Telecommunications Officers and Advisors (NATOA) sent a letter to House leadership reiterating their opposition to HR 3557 the American Broadband Deployment Act. This was a response to the recent Industry Trade Association letter sent to House leadership by NCTA, CTIA, US Telecom, WIA, NTCA and INCOMPAS and others.

From NATOA on HR 3557:

[Opposition Letter to HR 3557](#) NACo, NLC, the USCM and NATOA oppose the heavy-handed federal overreach into local land use, permitting, and franchise negotiation decisions in HR 3557, which represents:

- An unprecedented and dangerous usurpation of local governments' authority to manage public rights-of-way and land use
- Favors cable, wireless and telecommunications providers
- Waives historic preservation (NHPA) and environmental (NEPA) rules

H.R. 3557 runs counter to the recommendations from the new multi-stakeholders Benton Foundation and Georgetown Law Institute for Technology Law and Policy white paper: "[Permitting Success: Closing the Digital Divide through Local Broadband Permitting](#)," which recognizes that the main issue for smaller communities is a lack of staff and resources, particularly in that jurisdictions that will get most of the BEAD funding. Further, the Permitting Success white paper reflects the acknowledgement by the industry and other stakeholders that local permitting is important to protect public safety and the diverse values of communities. In addition, the FCC's Communications Equity and Diversity Council model rules for states and local governments recognized similar values and the need for local involvement (like franchising) to be sure deployment is equitable. H.R. 3557 is at odds with those recommendations.

From ACM on HR 3557:

HR 3557 allows for corporations to be able to modify franchise agreements at will and to be in public rights of way in perpetuity, if they so choose, to help promote broadband deployment in America. Obviously, something that is not in the interest of local communities and not in the interests of community media operations across the United States.

Many of our members wrote letters to the House and Senate leadership about the concerns of local preemption happening as a result of that bill. This is something we'll keep monitoring, but we want to ensure you knew that we don't have to worry about that until December at the earliest.

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 continuing to **not** include language from HR 3557 (American Broadband Deployment Act) in any 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.

From ACM on the Closed Captioning Registry.

The FCC has closed comments on the notice of further rule making petition that the ACM brought forward regarding the closed captioning registry and the request they had to have a waiver for public access producers in the United States not registering with the federal government about their captioning exemption status.

Mike Wassenaar, president of the ACM is happy to report that he has gotten some supportive comments from our friends at NATOA, as well as from other local governments across the United States, and we will hopefully hear soon about the FCC's actions.

The sort of the information necessary for individual channels to actually give their points of contact in the registered database in case their consumer complaints for those of you are not familiar with the 2016 ruling that promulgated our concerns.

The FCC says that all television channels actually should have a point of contact listed for any consumer complaints about closed captioning and the point of contact also should be able to tell an individual at the FCC what the exemption status is for the FCC's captioning rules.

The FCC has a set of closed captioning rules that are separate from the Department of Justice requirements under ADA and those rules by and large state that I think most public, educational and government television operations in the United States are exempt because of one of a number of different factual conditions.

One of them is the amount of revenue received. You have to make more than \$3,000,000 per channel to not be exempt from captioning requirements. This is actually a rule that was set way back in 1998, so it's our analysis that most peg channels in the United States are probably exempt by of the FCC's captioning conditions.

We'll need to actually get points of contact for any channel that is on a cable operation in United States to be with the FCC in case consumer complaints come forward.

So I think that process will get rolling in 2025 and we'll provide you information as it moves forward. It's probably in everybody's best interest that consumers know if you're exempt from captioning rules, and they know who to talk to in case there's a question.

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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