

By Council Members Brewer, Katz, James, Martinez, Foster, Palma, Arroyo, Barron, Clarke, Comrie, Felder, Seabrook and Weprin

Whereas, public, educational, and governmental ("PEG") access provides thousands of hours of local programs each week to New York City residents, such as City Council meetings and hearings, community and neighborhood events and forums, foreign language programming health care information, school sports, services for houses of worship, and legislative updates and public access channels in all five boroughs allow New York City residents to exercise their First Amendment Rights and to create opportunities for non-commercial communication, education, artistic expression on an open and equitable basis; and

Whereas, local cable franchising allows municipalities around the country to exercise local authority and receive franchise fees for the use of public rights-of-way in order to meet the specific public access, community programming, consumer protection, public safety, and technology needs of residents and businesses; and

Whereas, the City Council of New York contends that the City's future economic success depends on universal, affordable broadband access and that the only way to achieve this objective is if New York City has the authority to regulate at the local level to help increase and improve broadband services for underserved residents; and

Whereas, existing law enables New York City (through local franchise agreements with cable television companies) to offer City residents vibrant and diverse local programming, Public Access channels in all five boroughs, and the City run Educational and Governmental channels; and

Whereas, existing law supports the objectives of localism and universal service by providing states and municipalities sufficient rights to manage local build out of services and determine local public access needs; and

Whereas, these bills could prevent New York City and other municipalities around the nation from requiring Multi Channel Video Providers (including cable or telecommunications companies) and advanced Internet communications service providers from having to obtain a franchise from the City for the use of City rights-of-way, thus impeding each municipality's ability to (i) control the use of its own resources, and (ii) determine what is required to meet local access needs; and

Whereas, these bills could nationalize franchising, which would remove local protection for consumers and would transfer effective local enforcement to the federal bureaucracy or the courts; and

Whereas, these bills may eliminate any build-out requirements for any video service provider, allowing providers to "red-line" and discriminate based on the wealth of the local neighborhoods they choose to serve; and

Whereas, these bills could substantially reduce the city's compensation for use of its rights of way by private companies and also reduce financial and operational support for PEG access; and

Whereas, although these bills contain some provisions that require companies to dedicate channel capacity to PEG access,

they could lower the number of required PEG access channels and limit or eliminate support for public infrastructure like the I-Net (Institutional Network), which supports public safety, schools, emergency services and municipal communications; and

Whereas, although these bills contain some provisions that require PEG access, a Federal one-size-fits-all approach to public access does not serve the public interest in New York City because it does not take into account the local needs and circumstances that are unique to the City; and

Whereas, passage of these bills paves the way for the cable and telecommunications companies that have existing local franchise agreements with municipalities to lobby Congress to amend Federal law to exempt them from local franchise obligations; and

Whereas, these bills are unnecessary; because under existing law, telephone companies may enter the video market as common carriers, as open video service providers, or under the same franchising framework as cable companies; now, therefore, be it Resolved, That the City Council of New York opposes, and urges the New York Congressional Delegation and all other members of Congress to oppose, Senate bills S. 1349 and S. 1504 and House bill H.R. 3146, as well as COPE and any other similar legislative proposals.

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