

Cable Communications

LOB #258:

COMMUNICATIONS POLICY AND REGULATION

Purpose

Communications Policy and Regulation negotiates and oversees the County's cable franchises; advises the Board of Supervisors and County agencies on communications law and policy issues; and addresses resident inquiries on cable and telecommunications issues.

Description

Communications Policy and Regulation currently oversees three franchised cable providers: Cox, Comcast, and Verizon. Cable operators must obtain a nonexclusive franchise from the County, as the local franchising authority, to use the County's public rights-of-way to provide cable service.

Cable franchise agreements are negotiated subject to complex constraints imposed by federal and state law and at long intervals, typically ten or fifteen years. However, the franchise renewal process prescribed by federal law begins three years before the actual expiration date. This process involves extensive research and ascertainment prior to the actual negotiations. When a franchise agreement has been completed, Communications Policy and Regulation monitors cable operators' activities to make sure the agreement is carried out, meeting regularly with the cable operators to address issues that may arise. At the recommendation of Communications Policy and Regulation, the County's Communications Administrator may give notice of franchise violations and assess liquidated damages. Communications Policy and Regulation works with the Office of the County Attorney to review and recommend amendments to the Fairfax County Code provisions regarding cable service.

Communications Policy and Regulation provides information on communications issues to the Board of Supervisors, the Office of the County Attorney, the Department of Information Technology, and other agencies. To keep current, Communications Policy and Regulation tracks developments in communications markets, technology, laws, and regulation, at the Federal Communications Commission (FCC), in the trade press, and through participation in national and local associations. During the General Assembly legislative season, Communications Policy and Regulation reviews pertinent legislation and advises the County legislative team as to its implications and importance.

Communications Policy and Regulation responds to inquiries from residents that include both general questions and individual complaints. Communications Policy and Regulation reviews these inquiries with the cable operators directly and can often succeed in resolving a problem that the individual resident alone could not. Communications Policy and Regulation conducts consumer educational seminars for County residents and organizations on topics such as how to understand a cable bill or what to look for in buying a new television.

When authorized by the Board of Supervisors, Communications Policy and Regulation prepares filings, in conjunction with the Office of the County Attorney, for FCC or court proceedings.

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Benefits

Communications Policy and Regulation benefits County residents through cable franchise negotiation and enforcement and in individual complaint mediations.

Communications Policy and Regulation provides information and assistance to County residents on customer service issues. The franchise agreements and Fairfax County Code include protections for subscribers, such as customer service standards. Communications Policy and Regulation helps cable customers with billing matters, monitors cable operators' telephone answering performance, and ensures that service is made available throughout the County pursuant to the cable franchise agreements.

Connecting People and Places

Negotiation and implementation of the franchise agreements results in the availability of high-speed, high-quality broadband service that connects people and places by enhancing access to information. Communications Policy and Regulation provides important information via educational seminars and through direct contact with residents. Communications Policy and Regulation's response to individual inquiries promotes connectivity and access to information by helping cable subscribers get the communications services they pay for.

The needs assessment process conducted as part of cable franchise renewal engages the public in providing input for negotiations. The public, educational, and governmental access channels established through franchise negotiations provide ways for residents to connect with County government, schools, and the community via cable television. Communications Policy and Regulation works with communities and organizations on legislative and regulatory matters, engaging at local, state, and federal levels and providing recommendations to the Board of Supervisors on cable-related developments.

Exercising Corporate Stewardship

Communications Policy and Regulation negotiates cable franchise agreements that provide revenue to the County, offsetting General Fund expenditures, and supports the *Exercising Corporate Stewardship* County Vision Element. Cable communications revenue received in FY 2015 was \$25.4 million. Communications Policy and Regulation monitors cable operator payments and conducts reviews as necessary, ensuring the County receives what is due under the franchise agreements and applicable law. The County's I-Net, which connects County and school buildings for voice, video, and data services, is funded from the cable franchises, allowing the County to avoid buying comparable services on the commercial market.

Mandates

Federal law places primary responsibility for oversight of cable operators on the local franchising authority. While federal law limits what can be negotiated in a cable franchise, it does not generally ensure that any of the available benefits will be achieved unless the locality actively negotiates for them. *See* 47 U.S.C. §§ 531, 541-42, 544, 546, 552.

The County is authorized to negotiate cable franchises and regulate cable systems under Code of Virginia Ann. Title 15.2, *Counties, Cities and Towns*, Chapter 21, *Franchises; Sale and Lease of Certain Municipal Public Property; Public Utilities*, § 15.2-2108.20, *Authority to grant negotiated cable franchises and regulate cable systems*.

The franchise fee permitted under federal law has been subsumed in Virginia by the communications sales and use tax specified in Code of Virginia Ann. Title 58.1, *Taxation*, Chapter 6.2, *Virginia Communications Sales and Use Tax*, § 58.1-648, *Imposition of sales tax; exemptions*.

Cable franchising and regulation is governed by Fairfax County Code Chapter 9.1, *Communications*.

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Trends and Challenges

County revenue from the state communications sales and use tax and from the Public, Educational, and Governmental (PEG) capital access grants the operators provide under their franchise agreements has generally continued to rise. The County received approximately \$24.1 million in FY 2013, \$24.5 million in FY 2014, and \$25.4 million in FY 2015.

The cable and telecommunications industry expresses a continuing interest in constraining the benefits that can be obtained by cable franchising and the scope of local oversight at the federal and/or state levels. It is possible that future legislation or rules may reduce the County's authority.

The industries seek to reduce the amounts they can be required to pay via franchise fees, the communications sales and use tax, or PEG capital access grants specified in a franchise agreement. If the FCC or Congress endorses these efforts, County revenue may be affected.

The number of people who watch alternatives to traditional cable television using Internet-provided services ("over-the-top" video) is increasing. Such over-the-top viewing may eventually displace cable subscription and the associated revenue, although at present it principally seems to be used in addition to cable service rather than in place of traditional cable.

Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
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FUNDING			
<u>Expenditures:</u>			
Compensation	\$1,117,063	\$1,038,571	\$1,155,537
Benefits	452,322	420,466	522,014
Operating Expenses	127,478	136,086	399,633
Total Expenditures	\$1,696,863	\$1,595,123	\$2,077,184
<u>Transfers Out:</u>			
Transfer Out to General Fund	\$4,145,665	\$3,148,516	\$3,532,217
Transfers Out to Other Funds	12,207,428	11,978,085	12,183,882
Total Transfers Out	\$16,353,093	\$15,126,601	\$15,716,099
Total Revenue	\$24,457,677	\$25,394,951	\$25,167,468
POSITIONS			
Authorized Positions/Full-Time Equivalents (FTEs)			
<u>Positions:</u>			
Regular	12 / 12	12 / 12	12 / 12
Total Positions	12 / 12	12 / 12	12 / 12

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Metrics

Metric Indicator	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Households subscribing to cable	288,498	289,531	286,249	286,150	286,000
Percent of households subscribing to cable service	72%	72%	71%	71%	70%
Cable Communications revenue	\$24,129,032	\$24,457,677	\$25,394,951	\$25,167,468	\$25,862,861
Policy and legislative activities	186	243	281	250	250
Public attendance at cable educational seminars	328	389	533	550	600

Households subscribing to cable

The total number of households subscribing to cable shows that County residents are not cancelling cable service, despite media reports about “cord-cutting” subscribers who are abandoning cable.

Percent of households subscribing to cable service

The percentage of households subscribing to cable service in the County indicates the high degree of penetration by the cable operators. If the County population increases at a greater rate than subscribership decreases, the result may be a decline in the percentage of households subscribing to cable service.

Cable Communications revenue

Cable communications revenue from the cable franchises includes two components: the communications sales and use tax and Public, Educational, and Governmental (PEG) capital access grants. The communications sales and use tax, a state tax charged to cable subscribers, is five percent of certain subscriber payments. PEG capital access grants amount to three percent of the cable operator’s gross revenues from cable service. A relatively stable level is projected for FY 2016 and FY 2017. Any decrease in the number of subscribers is liable to be offset by potential increases in cable rates.

Policy and legislative activities

The number of policy and regulatory activities includes two components: legislative reviews conducted by the agency as managed by Communications Policy and Regulation, and meetings in support of the County’s legislative or regulatory agenda in which Communications Policy and Regulation participated.

Public attendance at cable educational seminars

Public attendance at cable educational seminars, which provide information about matters such as understanding a cable bill and evaluating the features of new televisions, has increased. This trend should continue over the next few years.