



## DRA

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Congressman Jose E. Serrano  
2227 Rayburn House Office Building  
Washington, D.C. 20515-3216

Dear Congressman Serrano:

The Division of Ratepayer Advocates (DRA) of the California Public Utilities Commission (CPUC) is pleased to hear of the upcoming Hearing on Public, Educational, and Governmental Access (PEG) for Cable Television scheduled before your Subcommittee on Financial Services and General Government.

The purpose of this letter is to inform the Subcommittee that the way in which AT&T has chosen to provision PEG channels on its U-verse video service in California appears to violate state law. Over the past several months, municipalities and community media organizations have expressed their concerns to AT&T regarding the limitations of its U-verse PEG channel carriage.

On September 29, 2006, the California Digital Infrastructure and Video Competition Act (DIVCA) was signed into law, and took effect January 1, 2007. The purpose of DIVCA is to create a streamlined process for granting video service franchises, promote broadband deployment, increase competition, and expand customer choice. Under DIVCA, franchises are granted by the California Public Utilities Commission (CPUC) rather than local franchising entities. Although promoting broadband deployment and competition are among DIVCA's primary objectives, DIVCA also contains several provisions specifically designed to preserve and protect the continued provision, quality, functionality, and accessibility of PEG access channels.

DIVCA, in pertinent part, states the following:

*"PEG channels shall all be carried on the basic service tier. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the basic service tier and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator." [PUC 5870(b)]*

*"The PEG signal shall be receivable by all subscribers, whether they receive digital or analog service, or a combination thereof, without the need for any equipment other than the equipment necessary to receive the lowest cost tier of service. The PEG access capacity provided shall be of similar quality and functionality to that offered by commercial channels on the lowest cost tier of service unless the signal is provided to the holder at a lower quality or with less functionality." [PUC 5870(g)(3)]*

DIVCA is one of the most consumer friendly state video franchising laws enacted to date. Consistent with federal principles, it was designed to preserve and protect PEG programming, based on a common understanding of what was intended by federal law for designating PEG channels, and for prohibiting operators from exercising editorial control over its content. Unfortunately, in California, even with very explicit statutory language, we are finding that PEG channels are not being delivered as the state Legislature intended.

There are particular problems with AT&T's approach to PEG. While other cable operators using the same IPTV delivery technology AT&T uses can and do deliver PEG channels in the same manner as other commercial channels, AT&T has decided not to provide PEG channels on the same basis. As a result, AT&T's PEG carriage is inferior and completely different from other commercial channels. (See attachment A.) Furthermore, AT&T is not the only company that is seeking to change the way in which PEG is provided. We have learned that other incumbent cable operators are taking or are preparing to take actions similar to AT&T. (See attachment B.)

DRA has been working with a group of dedicated representatives from community media centers, local governments, educational institutions, and organizations representing the interests of minorities and the disabled regarding these concerns. While DRA and California cities are looking at ways to address this problem, it is in fact a national problem, because AT&T has implemented the same practices nationwide.

DRA urges Congress to strengthen laws protecting PEG access to ensure the future of this important community resource. We believe it is particularly appropriate for your Subcommittee to consider whether the FCC is using its resources to ensure that PEG channels are provided as contemplated under existing law.

DRA would like to express its gratitude to you for giving due consideration to this very important matter.

Respectfully Submitted,

Dana S. Appling, Director  
Division of Ratepayer Advocates, CPUC

## Attachment A: AT&T U-verse PEG Channel Deficiencies

- The AT&T PEG application does not support closed-captioning even though federal regulations require multi-channel video service providers to pass closed captions through to viewers. As a result, hearing-impaired subscribers are **unable to view closed captions (CC) on PEG programming (e.g., City Council meetings) that are captioned.**
- The AT&T PEG application will not pass through secondary audio signals, or video description. **Using the secondary audio programming (SAP) format**, a programmer can send two audio signals – one in one language, and a second signal in another. In California, SAP is widely used to bring educational programming to the Spanish-speaking community. For example, the Los Angeles City Council meetings are cablecast in Spanish and English.
- AT&T will only carry a signal that is inferior in quality to even standard definition television programming. This is so even though many PEG programmers can provide signals in standard or high-definition.
- PEG channels cannot be recorded like other channels.
- PEG channels cannot be selected using the same menus that are used to select other commercial channels, and no information is available about the content of PEG programming. It is also impossible to “surf” for PEG channels in the same way one can “surf” other commercial channels.
- It can take a substantial amount of time and effort to access the PEG programming – much longer than it takes to switch to a commercial channel (it takes an average of 30-90 seconds to load and access a desired PEG program via a 5-step process).
- Subscribers **cannot** switch to a PEG channel by entering its channel number on the remote control. PEG channels **are not** placed on the same channel numbers as they appear on the lineup of the local incumbent provider – in fact, they have no real channel number.
- PEG channels **do not** appear on the basic service tier of video programming. Instead, PEG channels are given the inferior status of a mere Internet application, rather than a true video channel that is similar to all the commercial channels on the AT&T system.
- PEG channels **cannot transmit Emergency Alert System (EAS) messages.**
- PEG channel functionality **is not similar** to commercial stations.
- Subscribers are **unable to view a PEG channel for a long period of time** (e.g., a lengthy City Council meeting) because the U-verse video stream “times out” and shuts off after long periods of uninterrupted viewing.

## **Attachment B: Actions by Incumbent Cable Operators**

- Relegating PEG channels to very remote channel locations – such as higher than channel 900.
- Charging consumers an extra fee for a special converter box to receive newly relocated PEG channels with local programming.
- Discontinuing or substantially reducing PEG monetary support due to operators' unilateral interpretations of new state laws or FCC rules.
- Shutting down PEG studios that had been managed by an incumbent cable operator.
- Freezing the number of PEG access channels that an incumbent cable operator will provide, resulting in no opportunity for expansion.
- Ceasing in-kind services such as free connections to schools and public buildings, such as fire and police stations and community centers.