

**CABLE ADVISORY COMMITTEE (CAC)
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII**

MINUTES OF MEETING

Date: October 13, 2004
Time: 10:00 a.m. – 12:00 noon
Place: Akaku: Maui Community Television
333 Dairy Road, Suite 104
Kahului, Hawaii 96732

CAC MEMBERS Present: CAC members Sam Aiona, Gay Porter, Gerry Silva and D. Mele Carroll; Excused: Jenny Fujita

OTHERS: Mark Recktenwald, Director; Clyde Sonobe, CATV Administrator; Laureen Wong, Staff Attorney CATV; and Glen Chock, CATV Staff.

AGENDA: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Hawaii Revised Statutes §92-7(b).

I. CALL TO ORDER --The meeting was called to order at 10:07 a.m.

II. ANNOUNCEMENTS

Director Mark Recktenwald welcomed and introduced Gay Porter, the new CAC member from the Big Island. Jenny Fujita was unable to attend CAC meeting due to unexpected circumstances.

III. MINUTES OF AUGUST 10, 2004 MEETING

Minutes of the August 10, 2004 meeting were made available to the CAC members prior to the meeting. There were no questions about the minutes which were accepted by the CAC.

IV. National Association of Telecommunications Officers and Advisors (NATOA) Conference, September 2004, San Francisco, California

CAC member Gerry Silva reported that the NATOA conference was very informative and provided an overview of the history of cable television regulation and future trends. Speakers emphasized the blurring lines between different developing technologies and that current laws and regulation may no longer be applicable to the new converged services and products. Mr. Silva noted that the number of different cable operators is shrinking, and that as direct broadcast increases its customer base, there will be a smaller number of subscribers

paying cable franchise fees. At the present time the federal Telecommunications Act is being rewritten by Congress.

- V. Alliance for Community Media (ACM) Conference, July 2004 – CAC member Mele Carroll stated that at an ACM conference seminar on fundraising, she was impressed with the participants' views regarding the importance of access to cable television. There was need for more funding for smaller communities so that they would be able to provide more programming. She noted that many access organizations rely heavily on volunteers.
- VI. Follow Up on Questions Raised in Prior Committee Meetings
- A. The allocation of PEG channels to PEG access organizations – Clyde Sonobe, CATV Administrator, reported that he discussed the channel allocation with Kealii Lopez of Olelo after the last CAC meeting. Prior to the change in a recent franchise order (D&O 261), Mr. Sonobe stated that Olelo had a channel allotment cap of 10%, which was applicable to only Olelo and did not apply to any other PEG. The 10% cap was not an entitlement of channels for Olelo since it still had to submit a request for an additional channel and justify its request. The removal of the 10% cap resulted in no real impact to Olelo since it could come and request additional channels at any time. On October 8, 2004 Olelo submitted a request for a 6th channel to DCCA. The request was forwarded on to Time Warner Entertainment (TWE) for its comments. Once both parties have submitted their comments, DCCA will review the comments and make a determination as to Olelo's request. Ms. Lopez stated that Olelo had been considering requesting a 6th channel for over 2 years. She stated that the repeat programming on Olelo was a challenge but that for certain types of programming as community, education and government programming, repeat programming was important. Demand for programming during the prime time hours is high, and that is the problem resulting in many complaints. Olelo would like to work together with TWE to have either a full time or part time 6th access channel for mixed use on Oahu. The 6th channel would be able to carry live House, Senate and City Council hearings and meetings. This is the first time Mr. Sonobe has reviewed a request for an additional channel. Olelo is targeting a January 2005 date for operation of a 6th channel. Director Recktenwald stated that if Olelo's request involved factual questions, then it may be after the end of the year before a decision is made.

Mr. Sonobe informed the CAC that the neighbor island PEGs were granted an increase to 5 channels in the same franchise order (D&O 241) as Olelo. This allowed for the uniform cable casting of programming statewide by UH and DOE and the uniform numbering of access channels.

Ms. Carroll asked if Olelo received complaints against program selection or were complaints focused on content? Ms. Lopez stated that Olelo has a complex system of scheduling programs to air. Since Olelo does not have editorial control, it does not prescreen programs or pull programs off the air unless they contain commercial content.

B. Roadrunner Complaints handled by CATV – Mr. Sonobe stated that DCCA-CATV treats all complaints, including RoadRunner, the same. When a claim concerns RoadRunner service, CATV follows through with TWE.

C. Olelo 2004 Election Coverage – Facilitation of Election Debates

Kealii Lopez, President & CEO of Olelo reported that for the Vote 2004 candidates debate program, invitations were sent out to all candidates by Olelo and the moderator, Robert Rees. No particular political party was favored, and 70% of eligible candidates participated in either of 2 programs. As for the moderator, there were still complaints coming in and Olelo was still reviewing them, but none of the complaints were from the participants or from those who chose not to debate. The guidelines for the debates are still in draft form but only need minor language changes. Ms. Lopez stated that the guidelines would be finalized in a few days and if not, the guidelines in draft form would be made available at the end of the week.

Regarding the Vote 2002 concerns raised by Steve Tataai in the August 2004 CAC meeting, Ms. Lopez stated that the program referenced was not an Olelo facilitated production, and the show's producer only wanted the front runners to participate. CAC member Carroll asked if Mr. Tataai understood that he could put on his own program. Ms. Lopez stated that Mr. Tataai had previously participated in a forum for all participants and also in an open mic session. CAC member Sam Aiona commended Olelo for its election programming and stated that he talked with some participants who declined to appear on Vote 2004 because of the moderator. He asked Olelo to reconsider the choice of moderator for the next debate series since that might result in greater candidate participation. Mr. Aiona reviewed a videotape of Vote 2004 programs and expressed the view that with a few adjustments, the programs would have had more success. He believed that the program guidelines should have been finalized before the program aired. Ms. Lopez stated that Olelo was developing a survey to ask viewers and the results would be helpful to improve future shows.

II. Update on Pending Matters

- A. Status of Independent Third Party Reviews of all PEGs – Mr. Sonobe reported that the consultants spent 3 or 4 days at each PEG facility. They are presently compiling data and will be returning in November 2004 to complete their information gathering. It is anticipated that unless there are unforeseen events, a report will be completed by January 2005.
- B. Status of PEG Board Elections by Akaku – Sean McLaughlin reported that Akaku's Board elections were recently completed and that Nancy Lee Potter was elected. The Board of Directors reviewed and approved the election process in an open meeting. There were three or 4 candidates on the ballot but voter turnout was low. The League of Women Voters assisted in the elections process and vote count. Mr. McLaughlin could not report on the number of voters from Molokai and Lanai although he indicated that there was a Molokai group formed to endorse a nominee. There had been some participation from Hana after outreach.
- C. Status of New Contracts for PEGs – Mr. Sonobe stated that the draft was being reviewed and finalized and should be sent to Olelo early the following week. The parties are continuing to negotiate and the supplemental agreements extended the present contracts until the end of November 2004.

III. Presentations by Akaku: Maui Community Television – Sean McLaughlin, President and CEO.

Mr. McLaughlin stated that Akaku was the most active PEG facility in the state and the nation. Akaku's Board of Directors updated its strategic plan last weekend, and Mr. McLaughlin passed out a handout outlining 8 strategic directions. Mr. McLaughlin stated that fund development is critical for Akaku since the amount of franchise fees may never be enough to meet its needs. Akaku performs a lot of contract services to bring in income (i.e. contract with the County of Maui to televise meetings). All state residents are invited to submit tapes to Akaku for showing. Akaku's facilities are cramped and they could use more office space. Akaku uses a shared path with the State which is unreliable. Mr. McLaughlin stated that the state emergency system did not convert feed for Maui County, and that Akaku wants to build a feed for Maui County. Mr. McLaughlin reported that hotel guests on Maui do not receive local community channels. If there is a local emergency, hotel guests may be unaware of the situation. Mr. McLaughlin stated that live transmission would provide a valuable service to Maui residents and tourists. He would like to extend media service to Molokai, Lanai, Hana and West Maui and ensure that services in Maui County are distributed equally. Mr. McLaughlin objected to the designation of "PEG" access. He stated that DCCA's focus is on education, particularly institutional

education, whereas Akaku emphasizes community access where all are accommodated. He does not believe that PEG monies should be used to fund state essential services such as education. He expressed that that Maui Community College and the Department of Education control the content of programming on the education access channel. Mr. McLaughlin stressed that the core of Akaku was its advocacy in support of PEG access. He suggested that CAC members participate in the pending Decision and Order regarding the extension of the Maui franchise for TWE from 2009 to 2013. He also stated that Akaku did not agree with the capital funding plan for \$3 per subscriber offered by TWE. He felt that the TWE should look at the needs of subscribers and the needs of the community in coming up with capital fund payments. Mr. McLaughlin reported that the parties have submitted their positions to DCCA who must now make a decision on the amount.

Mr. McLaughlin asked that the DCCA consider adopting a state policy requiring hotels to provide access to local programming. Mr. Sonobe explained that the hotel management determines the types of programs hotels provide to their guests and it is management who contracts with private companies (i.e., LodgeNet) for certain types of cable programming. These private companies then directly contract with the cable operator for programming.

Ms. Carroll asked what was the value of programming versus the value of a cable programming. She suggested that DOE should work in partnership with PEG organizations and that community access should be available to all. Director Recktenwald stated that public access was set up to provide equal access to cable channels. DOE and UH through HENC have a contract with Olelo to be responsible for educational programming on Oahu only. Director Recktenwald stated that HENC should be placed on the agenda for the next meeting.

Director Recktenwald indicated that TWE will be asked to comment at the next meeting on what is the true relative value of programming. Mr. Aiona asked that TWE representatives meet with CAC members at a later time and be available for questions so that the CAC will be able develop a better understanding of the cable operator.

Mr. McLaughlin stated that streaming video should be available to everyone and not just cable subscribers who pay for franchise fees. PEG access provides value to cable channels and that is the reason why subscribers sign on for cable television.

- IV. Guided Tour of Akaku's Facilities -- Sean McLaughlin hosted a tour of Akaku's facilities in Kahului, Maui for CAC members and other interested persons.

VII. Public Comments

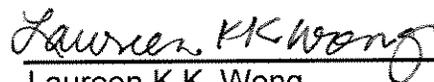
- A. Mike Albert, Maui Community College – Mr. Albert indicated that he would be submitting written testimony in support of his oral testimony. In response to Mr. McLaughlin's comments about MCC's control of programming content, Mr. Albert stated that MCC exercised positive control over programming ensuring that programs adhered to decency standards and that there was no obscenity. In addition programming submitted for broadcast must be produced by an accredited educational institution. He also stated that PEG access operate as a community except when it comes to funding since the Akaku Board has refused to fund DOE and MCC.
- B. Kealii Lopez commended CAC members for taking the time to attend ACM and NATOA conferences. When the PEG access organizations were first established, DCCA was very insightful in combining the P-E-G together in one organization for each county. If there are certain issues where the community has differences, then the DCCA has to referee. In the time of limited resources, she emphasized that groups should work collaboratively and wanted the cable operator to see that PEG access is a competitive advantage and resource to their operations.

VIII. Announcements

- A. The next board meeting in December 2004 will be on Kauai where Hoike will host a tour of its facilities. Date and location to be announced later.

IX. Adjournment --The meeting was adjourned at 12:47 p.m.

Taken and recorded by:



Laureen K.K. Wong

Dated: 11/12/04