

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

**MINUTES OF MEETING**

Date: **August 10, 2004**  
Time: 12:30 p.m.  
Place: Olelo Community Television  
1122 Mapunapuna Street  
Honolulu, Hawaii 968193

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

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

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 12:35 p.m.

II. ANNOUNCEMENTS

Gay Porter was appointed by the Governor, upon recommendation by Mayor Harry Kim, to serve as the CAC member for the island of Hawaii on an interim basis. Upon Senate confirmation, Ms. Porter's term will expire on June 30, 2007. Mele Carroll was ill and therefore could not make the meeting today. Ms. Porter could not attend today's meeting because of a prior commitment.

III. MINUTES OF JUNE 17, 2004 MEETING

Minutes of the June 17, 2004 meeting were made available to the CAC members prior to the meeting. There were no questions from committee members. Jeff Garland requested that his comments at the June 17, 2004 meeting regarding what he considers to be Olelo's discriminatory programming be noted.

IV. PRESENTATIONS

A. Olelo Community Television

Kealii Lopez, CEO and President of Olelo, spoke about the franchise renewal process for Oceanic Time Warner whose franchise term for Oahu

expires in December 2009. Prior to 2000, Olelo could request a maximum of 10% of cable channels from Oceanic, but after 2000, Olelo was granted 5 channels with the option of asking for more. Olelo is thinking of asking for possibly 2 more channels since there have been complaints about scheduling and the prime time lineup. Ms. Lopez distributed a budget in which Olelo's Board of Directors authorized deficit spending. Olelo will be holding a candidate forum during the upcoming fall election. Ms. Lopez went over the program scheduling for Olelo and indicated that there was great demand for the prime time hours since every program receives a premier showing and 3 repeat showings. Any additional repeated showings depended upon the staff's discretion to fill in programming holes and the period of the program's showing duration. Ms. Lopez indicated that block programming was developed to group similar theme programs into one group to develop viewer interest. Ms. Lopez introduced a short video on Olelo.

Member Silva asked Ms. Lopez what happened to regular programming when Olelo runs a large block of programming. Ms. Lopez explained that prior notice is provided to regular producers and most are willing to give up their regular times and are rescheduled to later in the evening. Ms. Lopez indicated that Olelo is looking into asking for a sixth access channel. The last time Olelo requested a channel was in 1995.

Member Aiona asked Ms. Lopez about the candidates forum and how the moderator was selected. Ms. Lopez stated that Olelo attempted to balance non-partisanship v. someone who be able to volunteer time and moderate all 40 debates. Bob Rees is the moderator for now, but Olelo is open to considering other options, and was meeting with Mr. Rees to discuss concerns about the forum. Mr. Aiona inquired about how block programming is put together. Olelo Program Manager Thom McGarvey explained that a first-time show is placed in an appropriate program block and run. It would repeat during non-prime hours. The database automatically calls up the newest program to fit a time slot.

B. Oceanic Time Warner Cable of Hawaii

Oceanic presented a Powerpoint slide show along with commentary from different speakers. Russell Saiki, Chief Financial Officer, stated that Oceanic is a regional company and comprised 4% of Time Warner Cable. Oceanic is the only cable company that serves a whole state with one local franchise authority (not counting the military franchises). There are 390,000 subscribers statewide with 74% of penetration into island homes. Norman Santos, Vice President of Operations stated that Oceanic leases fiber from Time Warner Communications to provide service to all parts of the State. The headend in Mililani serves the whole state, and new

interactive architecture allows for new services to be offered and feedback from subscribers. Oceanic is migrating to a digital system which would mean more channels than the analog system since digital channels use less bandwidth. Nathan Smith, President and CEO, discussed future services including "on-demand" television, high definition services, interactive TV, high speed data services, digital phones, polling, UH Film school, and telemedicine. John Komeiji, attorney for TWE, stated that Oceanic works well with the PEGs. Franchise fees total approximately 4.6% which Oceanic collects and passes on to subscribers.

CAC Member Fujita inquired about the number of digital subscribers on Kauai. It was reported by Oceanic that conversion to digital channels on Kauai totaled 3200 and lags behind the conversion on the other islands. Oceanic provided information on the calculation of the basic service fee. TWE inherited the pre-existing ratebase when it bought out different cable operators in approximately 1994. This is the reason there are different basic service rates among the different franchise areas. Oceanic can only adjust the rate from where it was.

V. ALLIANCE FOR COMMUNITY MEDIA CONFERENCE, JULY 2004 --Due to illness, Ms. Carroll was excused and not present at the meeting to give her report.

VI. UPDATE ON PENDING MATTERS

A. Status of PEG Board Elections –

Na Leo – Randy Magnus elected  
Hoike – Gabrielle Dorman elected  
Olelo – balloting completed, ballots to be counted today  
Akaku – Board approved election process; balloting by fax, in person and mail

B. New Contracts for PEGs --Contracts extended to 9/30/04; PEGs agreed to discuss contract provisions as a group with the state, with Olelo to take the lead in the negotiations.

C. Financial Review of TWE --The written report by DCCA-CATV consultants on Oceanic's collection of franchise fees on Oahu is posted on department's website. The questions posed by Olelo's attorneys are being addressed by department. Consultants are finalizing the written reports for the reviews of Time Warner's collection of franchise fees on the neighbor islands. Independent third party review of PEGs is underway and consultants are preparing for on-site review.

- D. Letter from Attorney General on Spending Funds for PEG Pilot Program, dated July 8, 2004 – (copies distributed). Attorney General opined that legislation is required before Department can spend money on this program.
  - I. Guided Tour of Olelo's Facilities --Kealii Lopez hosted a tour of Olelo's facilities at Mapunapuna for CAC members and other interested persons.
- VII. Public Comments

Jeff Garland requested that the PEG audits be placed on the agenda for the next meeting. Mr. Garland raised questions about the increase of 34% in basic fees and why the number of value channels was decreased. Mr. Garland questioned what percentage of the 750 Mhz is Oceanic using. Mr. Garland asked that the state conducted needs-assessment study in 1985 by consultants Rice and Williams be made available to CAC members. Mr. Garland expressed his belief that the public component of PEG is being underserved as opposed to the government and education sectors. Mr. Garland indicated that there was a need for another PEG access channel for public access programming. He felt that Olelo's block programming was not on a first come first serve basis and not non-discriminatory. Thom McGarvey explained that block programming brought in more viewers and would free up other channels as the cultural and ethnic programs have been moved to Channel 53. Mr. Garland submitted written comments on August 18, 2004 on block scheduling (or Programming) which were included in the record for this meeting and forwarded on to CAC members. He also requested that an email from Miki Lee dated February 16, 2000 which he passed out at the meeting be made part of the record. Mr. Recktenwald indicated that he would later review the email and consider Mr. Garland's request.

Steve Tataii stated that he was unfairly stopped from participating in a candidates' debate for the Congressional race in 2002. He appeared at Olelo's studio, but the moderator would not let him participate in the debate. Mr. Tataii was deeply hurt by this action. Ms. Lopez indicated that in 2002 Olelo did host debates and any candidate for that office could participate. However, there were other special election debates that had different ways of inviting participants. Ms. Lopez would look into the matter.

Cheryl Kaster raised concerns that the number of Olelo's volunteers had decreased, its costs increased and the number of locally produced programs were down. Ms. Kaster also raised her displeasure with the upcoming Vote 2004 and its moderator Bob Rees. She also expressed that the board election was fraught with problems especially the balloting. By email dated August 18, 2004, Ms. Kaster provided additional written testimony on what she views as Olelo's

partisan "political" involvement with Vote 2004/2002/micromanaging, copies of which she also emailed to the CAC members.

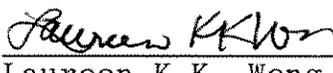
Sean McLaughlin stated that it was important to hear from Oceanic and to ensure that the state is properly regulating TWE. He stated his opinion that it was a unilateral decision to cut back on the number of channels allocated to Olelo. Mr. McLaughlin remarked on the basic rate structure. Mr. McLaughlin commented that DCCA does not regulate broadband high speed data service since a 9<sup>th</sup> Circuit opinion holding that such service was not a cable service. However, other jurisdictions continue to regulate cable modem service. In light of the 9<sup>th</sup> Circuit opinion, Director Recktenwald questioned whether the state had legal authority to enforce such regulation. Mr. McLaughlin stated that if a subscriber had a complaint about cable modem service, there was no agency to go to. By email dated August 19, 2004, Mr. McLaughlin requested that 3 articles relating to his work as Akaku's cable access manager be included in the record for the meeting<sup>1</sup>.

VIII. Announcements

- A. NATOA conference in San Francisco, September 2004 - Gerry Silva and Sam Aiona will attend.
- B. The next board meeting in October 2004 will be on Maui where Akaku will host a tour of its facilities. Date and location to be announced later.

IX. Adjournment --The meeting was adjourned at 3:30 p.m.

Taken and Recorded by:

  
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Laureen K.K. Wong  
Dated: 9-9-04

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<sup>1</sup> Only the Maui News article is included in the meeting record since copies of the other articles were not timely provided to CATV by Mr. McLaughlin.