Department of Commerce and Consumer Affairs' ("DCCA") Plan For Public, Education, and Government ("PEG") Access

In exchange for the use of valuable public rights-of-way, cable franchise holders are required to set aside channels for public, education and government uses ("PEG"). Public access channels are often the video equivalent of the speaker's soap box or the electronic parallel to the printed leaflet. They contribute to an informed citizenry in many ways, whether through giving a voice to those who might otherwise not have one, through bringing educational opportunities to our homes, or by showing our local and state governments at work.

In the spring of 2003, DCCA decided to reassess the State's policies on PEG access, and to create a plan to guide the future development of PEG access television in Hawaii. To that end, the DCCA developed a discussion document that identified 16 issues relating to PEG access, and set forth possible policy options for many of those issues. The public was invited to comment on the issues identified in the document, as well as any other issues that they believed should be addressed. In order to facilitate that process, public comment meetings were held in Hilo, Kona, Honolulu, Kahului and Lihue.

The response received by the DCCA reflects a strong public interest in cable access. 187 individuals and entities submitted written comments in some form. A total of 224 people attended the public comment meetings, and 100 spoke at the meetings. The public comment meetings were videotaped, and the meetings in Kahului and Honolulu were broadcast live over PEG access channels. Public comments are available for review at DCCA's offices. Additionally, the written comments are posted on our website (www.hawaii.gov/dcca/).

The public testimony and comments show that PEG access is fulfilling its mission of providing a forum for free expression for the people of Hawaii. Across the State, citizens repeatedly told the DCCA about the opportunities that PEG access had given them to reach their fellow citizens.

At the same time, the public comment process identified many challenges and areas for improvement. These included: (1) the fact that conditions in each county are different, and an approach to PEG access that works in one county may be unsuccessful in another, (2) the fact that there are areas throughout the State, including both Oahu and the neighbor islands, that are underserved by the current PEG access system, (3) a need for a more participatory governance system for PEGs, both in the process of selecting board members and in the rules governing how the PEGs conduct business, (4) a need for DCCA to receive ongoing input from the community on issues relating to PEG access, and (5) a need for periodic, independent review of PEG operations.

A PEG access plan can address, but scarcely hope to solve, all of these problems. Nor can it satisfy everyone. What it can do, however, is establish processes and policies which will enable the interested parties themselves to better address them. In other words, the plan is just a starting point for an ongoing collaborative effort to improve PEG access television in Hawaii.

Background

The regulation of the cable television ("tv") industry is based on federal laws that allow local regulation by a local franchising authority ("LFA"). The DCCA was designated by the Legislature as the LFA for the State of Hawaii.

PEG access was initiated through the collaboration of the DCCA, the cable tv operators, and the four Counties. A PEG access organization was established in each County as a private, non-profit 501(C)(3) corporation to serve the unique requirements of that County. The following are the PEG corporations:

Hawaii	Na Leo 'O Hawaii, Inc. ("Na Leo")
Kauai	Hoike - Kauai Community Television, Inc. ("Hoike")
Maui	Akaku - Maui County Community Television, Inc. ("Akaku")
Oahu	'Olelo - The Corporation for Community Television ("'Olelo")

Each of these access organizations is funded by fees which are collected by the cable operator from its subscribers. Federal law states that an LFA can assess up to 5% of the cable tv operator's gross revenues for purposes of these franchise fees. The recipients of these fees include the four PEG access organizations, the DCCA and the Hawaii Public Television Foundation ("HPTF"). The HPTF is better known to many as KHET Public Television or PBS Hawaii.

The current distribution of franchise fees collected in each County is:

3% To the PEG access organization for the specific County where fees are collected
1% To the Hawaii Public Television Foundation (Public Television – PBS)
.64% To the DCCA to support the administration of the program
Note: DCCA receives 1% of standard service revenues, not gross revenues.
1% of standard service revenues are approximately .64% of gross revenues.

In addition to operating funds collected from cable subscribers, the cable operator also makes capital fund payments to the PEGs for the purchase of items including equipment, furniture, and fixtures. These payments are not a part of the franchise fee cap of 5%, and are not directly assessed to subscribers on their invoices. The capital fund payment amounts are the result of negotiations that involve the DCCA and cable operator with input from the PEGs. At certain designated dates within the franchise period, the PEGs are requested to work with the cable operator to develop a capital payment plan that is then submitted to the DCCA for consideration.

The PEG access organizations also receive channel capacity on the cable tv operators' systems. All four PEGs have been authorized the use of five (5) channels. Additional channels can be requested by the PEGs, with supporting documentation. These requests will be reviewed by the DCCA which will then enter into discussions with the cable operator. Based on the results of this review process, DCCA will then make a decision on the request for additional channel(s). The review criteria include items such as current use of channels in production, percentage of first time versus re-run programming, channel utilization by local producers, and other factors related to channel demand.

Note: On Oahu, 'Olelo has entered into a contract with the Hawaii Educational Network Consortium ("HENC") to be its Education Program Manager. HENC is a consortium comprised of representatives from accredited educational institutions within Hawaii including public and private lower and higher education schools such as the University of Hawaii, Department of Education, and Hawaii Association of Independent Schools. 'Olelo allocates twenty-five percent (25%) of its revenues from franchise fees to HENC to fund educational programs and services that are primarily cablecast on two of 'Olelo channels.

ISSUE #1: PEG Oversight

Currently, the State of Hawaii through the DCCA regulates the cable television industry in Hawaii. Among other things, DCCA performs basic service tier rate regulation, reviews franchise applications / renewals / transfers, facilitates resolution of customer service complaints, appoints members of PEG boards, negotiates operating agreements with PEGs, and oversees the expansion and functional improvements of the Institutional Network ("INET"). The DCCA also participates in matters indirectly related to cable television, such as advocating the interests of Hawaii consumers with regard to Direct Broadcast Satellite ("DBS"). The DBS industry is regulated on the federal level by the FCC and is not regulated on the State or local level.

It should be noted that Hawaii is one of a very few States that has franchising authority at the State level. On the mainland, regulation of the cable industry most often resides at the city, county, or municipal level. In certain states, a cable operator may interface with scores of LFAs.

A key threshold question is whether, and to what extent, the State should be responsible for PEG access matters and cable tv regulation.

DCCA's PEG Oversight Plan – At the Option of Each County

There is a significant diversity between the Counties in the needs, priorities, and challenges faced by their respective PEG entities. Currently, DCCA is responsible for the oversight of all those entities, and has entered into contracts with each of them. Under the Plan, the State will provide each County with the option to oversee PEG access in that County.

If the County accepts:

All matters relating to PEG oversight within the County will be delegated to the county by the DCCA, including but not limited to the determination of how to select board members of the PEG entity, and what requirements to place on the PEG entity for "sunshine" in its operations.

The current system of funding will remain in place, i.e., 3% of the cable operator's gross revenues collected in each County will be used for PEG purposes in that County. These fees are currently paid by the cable operator directly to the PEG organization in each County.

DCCA will provide the County with funding (**$30,000.00/yr.**) to assist in the administration and management of PEG access in that county. These funds will come from the cable subscribers' fees that are currently collected to support the administration of DCCA's cable program.

The current contract between the DCCA and the County's PEG access organization will be voided once a new contract is executed between the PEG access organization and the County, as well as between the County and DCCA. The County will be required to indemnify the State for any liability associated with the County's oversight of the PEG entity, and to require the PEG to cooperate with periodic audits (see issue 17 below).

If the County declines:

DCCA will continue to oversee the operation of the PEG entity located in that county.

ISSUE #2: Governance - PEG Board Appointment Process

Currently, members of the PEG board of directors are appointed by the Director of the DCCA and by the cable operator for each County. The number of board members for each PEG entity differs, reflecting the unique needs and wishes of each board.

County	PEG Entity	DCCA Appointed	Operator Appointed	Total
Hawaii	Na Leo	11	1	12
Honolulu	'Olelo	6	3	9
Kauai	Hoike	7	2	9
Maui	Akaku	14	1	15

The DCCA has acknowledged the autonomy and decision making authority of each PEG board of directors, and accordingly has not involved itself in the daily operational and financial management of the access organization. Each PEG board is responsible for all financial and operational management matters, including issues such as the uses of financial and equipment resources, and the resolution of complaints from its producers and interested persons. The DCCA and each PEG organization have a contract currently in force that is automatically renewed annually unless terminated or modified.

As board vacancies occur, each PEG access organization initiates a nomination process that includes public notice of the vacancy, review of applications received, selection of nominee, and presentation of recommended nominee to the DCCA or cable operator for appointment to the board. The DCCA and the cable operator have the discretion to accept or reject the recommendation. DCCA and the cable operator also have the authority to remove directors once they are appointed.

A recent opinion by the Office of Information Practices ("OIP") stated that the DCCA's board appointment authority was a factor in OIP's opinion that PEGs were an agency for Uniform Information Practices Act ("UIPA") purposes. Some observers believe that this opinion has jeopardized the private, non-profit status of PEG access organizations and have argued vigorously for the board appointment process to be amended by removing the DCCA's appointment authority.

The issue of governance, specifically the appointment of board directors, has been a much debated topic over the past few years. One argument in favor of continued DCCA involvement concerns the funding of the PEGs. Franchise fees are the result of Decisions and Orders issued by the DCCA to the cable operator. The cable operator is ordered by the DCCA to calculate, collect, and distribute funds from cable subscribers for PEG purposes. The DCCA has historically believed that it needs to exercise oversight of the expenditure of these funds. The current board appointment process provides the DCCA with some amount of oversight, both through the selection of directors and through the power of removing directors. Proponents of change argue that the DCCA retains adequate oversight through the annual reporting and contract renewal process. They believe that the DCCA has adequate oversight by the fact that the contract can be renegotiated or not renewed.

One issue that became apparent through the public comment proceedings is that there is a significant sense of alienation on the part of some users of PEG access. These users feel that they do not have a real voice in the governance of the PEG entities. Their frustration is reflected, among other things, in a number of complaints made against the PEG entities. It is the conclusion of DCCA that the present system provides a degree of oversight and accountability which is appropriate and necessary. However, the system should be modified to provide for a greater diversity of views on the boards of the PEGs.

DCCA's Governance Plan:

If the County accepts the opportunity to oversee the PEG entity, then it shall be up to the County to determine the appropriate selection process for board members in that County.

If a County declines the opportunity to oversee the PEG entity, then the current system of PEG governance will remain in effect, with one change. One of the positions on each board that is currently selected by the director of DCCA will instead be selected by an open election run by each PEG entity. The voters in that election will be limited to: (1) anyone who is currently certified as a producer at the PEG entity, and (2) anyone who has submitted a tape for broadcast by the PEG entity during the past year.

Currently, there are positions on each of the PEG entity boards which will need to be filled on June 30, 2004, and which are scheduled to be selected by the Director of DCCA. Under DCCA's plan, the first of those positions on each board will be selected using this election process. The PEGs shall be required to amend their bylaws subject to approval of DCCA to establish the election process prior to that time.

ISSUE #3: Cable Advisory Committee

The Cable Advisory Committee ("CAC") was intended to advise the Director and cable operators, upon request, on cable television related matters. This committee was established by statute, but has not been active since 1990. It appears that the prior Administration believed that the CAC had been established to provide guidance during the formative years of cable regulation, and that it had outlived that role.

Under current law, the committee is comprised of five (5) members who are appointed by the Governor and serve without pay but are entitled to reimbursement of necessary expenses. The committee last met before 1990, and the last member's term expired in 1996. No replacement members have been named since then.

There is a need for DCCA to receive ongoing input from the community on cable matters generally, and specifically on issues relating to PEG access. Accordingly, the DCCA will recommend to the Governor that she appoint new members to the committee. Current law does not specify residency or other requirements for membership. However, the DCCA will recommend to the Governor that representatives from each of the four Counties be appointed, along with an at-large appointment. The DCCA will further recommend that the Governor seek input from the mayor of each County regarding possible appointees from that County.

ISSUE #4: Funding - Financial Resources

Franchise fee assessments are consistent statewide, except for an agreed upon limitation that is in place for 'Olelo on Oahu. 'Olelo is subject to a $3.7M cap that may increase annually based on the Consumer Price Index ("CPI"). This calculated cap amount is compared against the actual 3% calculation, and the lower amount is remitted to 'Olelo.

As stated previously, the distribution of franchise fees collected are as follows:

1) 3% of gross revenues to the PEG access organization for the specific County where fees are collected;

2) 1% of gross revenues to the Hawaii Public Television Foundation (Public Television – PBS); and

3) 1% of standard service revenues to the DCCA

Note: This is equal to approximately 0.64% of gross revenues

Due to the differences in population as well as differences in cable services purchased by subscribers, franchise fees vary widely among the four Counties. Under current DCCA policy, the fees collected in each County remain in that County. The fees collected for each PEG access organization in 2002 were:

Hawaii	$547,243.00
Kauai	$270,569.00
Maui	$608,510.00
Oahu	$3,387,288.00

Franchise fees for PEG access collected in a particular County currently remain there for the benefit of its residents. There has been much debate regarding the issue of redistribution of franchise fees regardless of their source. Many members of the public support the current system, under which fees remain in the County in which they are collected. Others suggest that there should be some mechanism to redistribute franchise fees so that neighbor islands receive a larger percentage of the statewide total. They suggest that absent such redistribution, some areas of the neighbor islands are not able to receive even a minimal "baseline" of PEG access services.

In any event, it is clear that there are a number of areas which are underserved by the current system. These include islands such as Molokai and Lanai, rural areas on the neighbor islands such as Hana, and portions of Oahu such as the windward side. It is also clear that some of the recent successes in PEG access have occurred when PEG access services are brought into communities where there is a strong need and support for them, such as Waianae and Palolo on Oahu.

In order to support additional funding for these services without increasing the amounts assessed to cable subscribers, DCCA will reallocate funds that are currently being collected to support its administration of cable regulation in Hawaii. In the past, up to $500,000/yr. of those funds have been appropriated to support the INET. Since the INET is largely deployed, expenditures at that level are unlikely to be needed in the future.

Accordingly, DCCA will seek to reallocate a portion of the amount currently collected to support cable administration, and make these additional funds available for PEG purposes as described in the process below. The result will be an increase in funds available for PEG purposes, without an increase in cable subscribers' overall bills.

DCCA's Funding Plan: Additional funding to support cable access in underserved areas

DCCA will implement a three (3) year pilot program that will provide additional funding to meet the cable access needs of currently underserved areas. Such funding could be used to support additional access centers or for other programs which will enhance services in those areas.

Criteria for the program will be developed by DCCA in consultation with the cable advisory committee. It is anticipated that the cable advisory committee will also assist in reviewing applications and making funding recommendations to the Director of DCCA. Funding will be available to current recipients of cable franchise fees, i.e., the four PEG organizations.

ISSUE #5: PEG Channel Resource

Currently, all PEGs have access to five (5) channels on the cable operator's cable systems in each County.

The availability of consistent channel capacity has allowed statewide cablecasting capabilities for the State Legislature, University of Hawaii, and the Department of Education. By designating 2 channels for "E" purposes, both the UH and DOE are now able to develop and implement instructional curriculum that can be utilized by campuses on all islands. They are also able to take advantage of teaching resources residing on a particular island to reach students statewide. This results in leveraging not only personnel resources for statewide benefit, but also consistency in curriculum. For example, a calculus instructor on Maui will be able to reach students on all islands, increasing quality of curriculum. On Oahu, 'Olelo has reached an agreement with the Hawaii Educational Networking Consortium ("HENC") to manage and program 'Olelo's two (2) "E" channels dedicated to the UH and DOE. HENC is composed of members representing the UH, DOE, East West Center ("EWC"), and the Hawaii Association of Independent Schools ("HAIS").

A significant milestone was reached in August 2003, when all PEG access organizations, the UH, and DOE reached an agreement to implement consistent channel numbering for "E" channels statewide. UH programming can be viewed on channel 55 statewide, while DOE programming can be viewed on channel 56 statewide.

Statewide broadcast capability from the State Legislature has recently been improved by having broadcast feeds sent directly to the UH for statewide carriage on UH's HITS microwave network. This will result in more efficient transmission of live legislative broadcasts to the neighbor islands. In addition to broadcasts from the State Legislature, each PEG access organization has the resources to implement live broadcasts from their respective City/County councils and executive branch. At this time, not all PEGs have elected to implement live County government broadcasts.

PEGs can request additional channel capacity beyond the current allocation of five (5) channels. Requests for additional channel(s) must be accompanied with documented justification including, but not limited to, the following information: statistical data illustrating the use of existing channels, types of programming being cablecast on each channel, statistics on channel programming that is first run versus re-run, percentage of first run programming versus re-run programming, and percentage of time used for "bulletin board".

ISSUE #6: Sustainability

The issue of sustainability can be summarized by this question: "What would happen to each PEG organization if funding from franchise fees suddenly decreased significantly or disappeared completely?"

The question was first posed by the DCCA a few years ago as a discussion mechanism. The major item that prompted DCCA's request for plans of self sufficiency was the evolution of technologies that compete with cable tv. At first, wireless cable companies were the primary competition but lacked the market share to significantly impact the cable operators. Currently, there is a technology that may present true competition to cable tv, without cable's regulatory requirements: DBS. The DBS industry is currently represented by two major vendors, DirecTV and Echostar (Dish Network). If these service providers continue to gain market share, at the expense of cable tv companies, revenues to all beneficiaries of franchise fees will decrease. In addition to competitive technologies, there is also the potential of an evolving cable tv industry. If cable tv companies provided their services through the use of new or innovative technologies, such as Wireless Fidelity ("WI-FI"), would they still be held to requirements such as franchise fees? The development of new delivery systems and technologies will be a significant consideration in future regulatory policy.

The second item that affects sustainability relates to regulatory issues facing telecommunications / entertainment companies and the services they provide. For example, the FCC has recently determined that cable modem service (e.g. Oceanic's Roadrunner) is an information service, not a cable service. Many jurisdictions, including the State, have questioned this opinion, which currently is being reviewed by the FCC and also being litigated in federal court. The cable modem issue illustrates the uncertainty in this area, i.e., that services currently assessed with franchise fees may not be assessed in the future. This uncertainty relating to designation of type of service and the applicability of franchise fees also holds true for services being developed and not yet deployed. There is no certainty in how the FCC will identify a new service, whether as an information service or a cable service.

Again, the DCCA initially posed this question to the PEGs as a discussion mechanism on the effects that evolving technologies and regulatory issues may have on their revenues. Although the DCCA has not required any specific actions on the part of the PEGs regarding this matter, a plan was requested from each PEG that included actions that would be initiated in case revenues from cable operators were severely restricted. DCCA encourages the PEGs to identify and pursue additional funding from other sources, such as through grants that are consistent with the overall PEG mission.

If a County takes over responsibility for PEG access, then it will be up to the County to determine its policy on this issue.

ISSUE #7: Greater Community Participation

One of the primary goals of all PEG access organizations today is the extension of their services to all areas of their communities. This involves addressing the issue of physical access to the existing PEG facility i.e., how to provide services to residents who may not have easy access to resources either because of geography or other factors. The DCCA gives each PEG access organization discretion to select appropriate means to attain these goals. The following are services currently being provided by some or all of the PEGs:

Remote Access Centers: Currently, some of the PEGs are considering or have implemented remote facilities to address the concern of accessibility to PEG resources. For example on Oahu, ‘Olelo has implemented remote sites in Kahuku, Waianae, and Palolo. Although these are not fully equivalent to ‘Olelo’s main facility in Honolulu, they do provide easier access to PEG services for residents.

Mobile Facilities: Equipping a mobile van with production capabilities is also being considered to address the needs of more remote geographic areas. This option provides tremendous opportunities for greater outreach.

Alternate Sites: It has been suggested that the PEGs explore working relationships with existing institutions that could extend the reach of their services. This could include collocating with an existing non-profit corporation whose operations could be complimentary. By creating such alliances, the public will gain added access to PEG services while the PEGs will benefit by incurring lower outreach costs due to collocation agreements.

Facilitated Production: PEGs currently provide the public with the option of creating programming without becoming a certified producer. Such easy access services include staff supported "open mike" sessions as well as volunteer supported facilitated productions. These types of assisted services greatly expand and enhance the impact of PEG resources to their communities.

Equipment and Staffing: Regardless of the alternatives implemented, whether remote, mobile or collocated, the effectiveness of these options will be determined by their ability to deliver acceptable service levels to the end-user. Certain minimum equipment requirements have to be addressed including cameras, editing equipment and consistent programming formats, such as DVD, etc. More important to the success of this outreach initiative is the support provided by the PEG access organization that would accompany these possible alternatives. It is critical to the success of this effort that client/user support is readily available to assist wherever these alternatives are implemented.

The DCCA supports and encourages the outreach and extension of services undertaken by the PEGs, and will continue to do so in the future.

If a County takes over responsibility for PEG access, then it will be up to the County to determine its policy on this issue.

ISSUE #8: Cooperation and Collaboration Among PEG Organizations

The DCCA strongly encourages the PEG entities to collaborate and cooperate in order to maximize the resources available to each. By working cooperatively, the PEGs will hopefully reduce redundant, resource consuming activities. Resources can be leveraged and efficiencies maximized in this type of environment. The following are areas the DCCA believes resources may be leveraged:

Equipment Resources: PEGs should implement a policy of notification when equipment is planned to be retired. This will provide the opportunity for another PEG to request the equipment instead of it being discarded or donated. A documented process needs to be implemented in order for there to be mutual agreement and understanding on the operational logistics. This will ensure an open and fair process. In addition to retired equipment, cooperative purchasing and sharing of equipment is encouraged. This may reduce overall costs for unique pieces of equipment that may be more practically purchased by all four PEGs with an understanding regarding their shared use.

Personnel Resources: The DCCA encourages PEGs to share technical / support resources. This may simply be regularly scheduled "roundtables" where staff from each PEG meets to share ideas, experiences, etc. Or it can be structured instructional sessions where a trained resource presents information on a certain topic. These sessions will not only increase the expertise available in each PEG access center, but it will also further enhance the sense of community among the PEGs themselves.

Programming Resources: The DCCA supports the current agreement between the PEGs to share programming developed in their respective communities when it is appropriate. As issues of common interest develop, the exchange of viewpoints between the islands becomes more appropriate and relevant. The use and leveraging of common technologies is encouraged to expedite this exchange of viewpoints and ideas.

ISSUE #9: PEG By-laws

Although the by-laws of the PEG organizations are similar in nature and content, there are some differences which reflect the unique requirements and needs of each access entity. For example, the number of board members varies due to the requirements of each board. Certain boards prefer a greater number of members, and have increased their board size, while others have retained the same number since the original formation of the organization. The DCCA is sensitive to the unique requirements of each PEG access organization and will work with them to address their specific requirements, while still maintaining an appropriate level of consistency.

The DCCA expects each PEG access organization to comply with their by-laws to remove the potential for complaints and inconsistent operations. Specifically, the DCCA is concerned with the process by which its board meetings are conducted and strongly encourages the adoption and implementation of procedural rules, such as Roberts Rules of Order. Adoption and adherence to such rules will facilitate more productive, fair, and efficient meetings.

If a County exercises the option to oversee the PEG entity, then it will be up to the County to determine the administration and management of the PEG bylaw process.

If the County declines that option, then DCCA will continue its current policy of attempting to accommodate the unique requirements of each entity, while maintaining a degree of uniformity among the four entities.

ISSUE #10: "Sunshine" law requirements under HRS Chapter 92F (Uniform Information Practices Act) and Chapter 92 (Public Agency Meetings and Records)

All PEGs have stated that they comply with HRS chapter 92F, the UIPA. The Office of Information Practices determined in an opinion dated September 6, 2002 that Hoike and 'Olelo are subject to and must abide by the UIPA.

The PEGs vary in their approach to the issues addressed by HRS chapter 92 regarding Public Agency Meetings and Records. For example, some PEGs have adopted policies regarding the procedure for conducting public meetings which appear to be more restrictive than the requirements of HRS chapter 92. Some community members and users of PEG access services have expressed concern about what they perceive as a lack of openness at the PEGs.

The DCCA understands that compliance with HRS chapters 92F and 92 can pose a financial and staff burden on the PEGs. However, DCCA believes that openness and accountability are crucial. Accordingly, for those PEG entities that remain under DCCA's oversight, DCCA will require that they adopt bylaws and policies which comply with the requirements of HRS chapters 92F and 92.

For those PEG entities in counties that elect to oversee the PEG function, it will be up to the County to determine the policy on these issues that it deems appropriate.

ISSUE #11: Daily operational procedures – responsibility of each PEG

Although the DCCA recognizes the unique needs of all four PEG access organizations, it strongly encourages the implementation of written operational guidelines that address certain significant issues. The existence of written guidelines on these issues helps facilitate transparency and consistent application of the policies of each PEG. For example, the daily operational procedures for all PEGs should include reasonable hours of operation. Other issues that should be addressed in written policies include:

- Frequency of scheduling for first time programming vs re-runs;
- Sign-out and use of equipment;
- Content disclaimer; and
- Rules governing political or campaign programming.

ISSUE #12: Development of technical standards

The DCCA encourages PEGs to work cooperatively to develop consistent technical standards. These could include a common tape playback format, producer certification requirements, and equipment use certification. The creation of such technical standards will result in the following benefits:

- Similarly trained staff;

- Cross support between organizations;
- Additional resources during disasters and emergencies; and
- Potential purchasing benefits such as volume procurement.

ISSUE #13: Review of connectivity (PEG Network) currently provided by TWE

The DCCA is currently working with Oceanic Time Warner Cable to review the interconnections that make up the PEG Network in all Counties. The PEG Network is the means by which all PEG programming is sent to and received by the cable operator's headend facility in each County. Once the PEG programming is received at the cable operator's facility, it is then inserted into the channel program lineup and distributed to subscribers along with other programming.

The following interconnections comprise the PEG Network:
- PEG access organization to the cable operator's headend facility;
- UH and DOE to PEG organization, or directly to cable operator's headend facility; and
- County government to PEG organization, or directly to cable operator's headend facility.

In most of the counties, the programming from the UH, DOE and government are consolidated at the PEG facility then sent on to the cable operator's facility. Although this has been historically done, the DCCA will consider other options acknowledging that there may be costs that would need to be addressed by the requesting entities.

ISSUE #14: More Civic Affair Programming (CSPAN for Hawaii)

Some members of the community have identified a need for more civic affairs programming including State and County legislative, executive and judicial proceedings, as well as community based activities such as neighborhood board meetings.
The goal is to provide statewide distribution of civic / public affairs television programming as a means to encourage democratic participation and public interest through cablecasting. This endeavor will require the commitment and cooperation of many organizations including coordination of their resources.
There are many alternative approaches to accomplish these objectives, such as the expansion and enhancement of "G" programming currently provided by each of the four PEG access organizations. Another option which has been suggested is the creation of a separate, independent non-profit entity which would produce and distribute public affairs programming in Hawaii, similar to what CSPAN does on a national level. This non-profit would be responsible for managing the creation and distribution of public affairs programming on a statewide basis.

The idea of a CSPAN for Hawaii has potential, but many significant issues need to be addressed. These include funding, the provision of channel capacity, and the extent to which such an entity would duplicate services that are (or could be) provided by the PEG access organizations. Before the CSPAN idea can move forward, there must be a dialog on these issues between the affected parties, including proponents of the CSPAN idea, the cable operator, government agencies, and the PEG entities.

ISSUE #15: Resolution of complaints concerning PEGs

The DCCA recognizes the private, non-profit status of the PEG organizations, and accordingly relies on the PEG's board of directors, officers and employees to be responsible for overall client satisfaction, including the satisfactory resolution of complaints received regarding its operations and management.

However, situations have arisen where the DCCA's involvement is required to assist in the resolution of inquiries and complaints received from PEG producers or other constituents. In these instances, the DCCA will attempt to facilitate a reasonable solution / compromise that address the concerns raised while also respecting the policy and decision making of the PEG's board of directors. To accomplish this objective, DCCA will relay complaints to the PEGs and request a copy of the responses to those complaints to determine whether additional follow up is needed. The appropriate resolution of complaints by the PEGs is a factor taken into account by the DCCA in evaluating the performance of each PEG.

If a County declines the option to oversee the PEG function, DCCA will continue with its current policies regarding resolution of complaints concerning PEG access organizations.

If a County exercises the option, then it will be up to the County to determine its policy on this issue.

ISSUE #16: Role of PEGs : Production versus Facilitation

As the needs of their clients have evolved, PEG access organizations have reviewed and assessed how they can continue to serve their unique communities. In addition to their mission of training, developing production skills, and providing a forum for exchange of ideas, PEG access organizations have also been involved in activities that some have deemed non-traditional. Examples include: (1) responding to local government RFPs for video and captioning services which results in competition with private organizations, and (2) the development of programming utilizing the organization's resources, which could result in decreased availability of equipment or other resources (such as air time) to the public users of these access facilities. The development of such programming is sometimes referred to as "community building".

The DCCA has given the PEGs discretion to determine whether, and to what extent, they should engage in such activities. The DCCA will continue to allow the PEGs discretion in this area.

If a County accepts oversight of the PEG, it will be up to that County to determine the appropriate policy for its PEG organization.

ISSUE #17: Independent Third Party Reviews

Each PEG entity is required to submit annual reports to DCCA including financial statements, operational plan and budget, equipment inventory, and a year–end activity report.

However, some members of the public have suggested that the PEGs should periodically be subjected to the more detailed evaluation that an independent third party review would provide. DCCA agrees with this suggestion, and will implement a program to provide for the PEGs to be reviewed periodically by an independent third party. Such a review could include issues such as whether the PEGs are complying with the terms of their contracts with DCCA (or the County) and that the funds they receive are used for their intended purposes. DCCA expects that one PEG would be reviewed each year, so that each PEG would be reviewed every four years.

Even if a county exercises the option to oversee the PEG entity, DCCA would retain the right to have reviews performed on that PEG. DCCA believes that the state must retain the ability to require such reviews in order to ensure that cable subscribers' monies are being used appropriately.