

Statement from Education on **PEG** Access Issues

PEG Access and Education

The principles of PEG access call for three strong components: Public, Education and Government programming. As participants in the original public meetings that led to the current approach to franchising, the University and DOE stressed the importance of Educational Access programming and our commitment to serve the public through cable television. We believe these representations and commitments were significant factors in DCCA's original decision to allocate 3% of gross revenue for all of Public, Education and Government programming and in deciding how many PEG channels to allocate.

Hawaii's accredited educational institutions have indeed embraced the opportunities provided by the franchise agreements to serve the public throughout Hawaii via cable television. Without belaboring our accomplishments, we have provided an Associate of Arts degree via cable television statewide by leveraging and coordinating the efforts of UH campuses on different islands, we have provided language instruction (including Hawaiian language) statewide, we are providing certification programs for educational assistants statewide to help comply with the No Child Left Behind (NCLB) Act, we are providing certification for teachers statewide to meet NCLB requirements, we provide courses for students in schools throughout the State in subject areas where schools do not all have teachers available, and we provide a variety of informational programs that serve the 250,000 (300,000) students, faculty and staff of Hawaii's educational community and the public-at-large. One of the newest Educational Access projects is the collaborative work between the DOE and DCCA to develop and present an educational television series for the public on "Financing Your Future."

The current franchise agreements are consistent across the State. But they place responsibility for all aspects of Public, Education and Government access programming under the auspices of county-based private non-profit organizations: the PEG access organizations. This has meant that to provide educational programming to the entire State via cable TV, the education community has had to work and negotiate separately with four independent organizations. These organizations have exhibited shifting priorities and variable commitments to Educational Access programming by Hawaii's educational institutions. At times, some of the relationships have been quite contentious. The basic problem is that any resources allocated to educational institutions for Educational Access programming are sometimes viewed by the PEG access organizations as taking resources out of the

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hands of the Public Access programmers, who are generally viewed as the primary constituency of the PEG movement.

We would like to review three specific aspects of PEG access that are of particular concern to education: PEG channel capacity, connectivity into the cable systems via the PEG Network, and the allocation of financial resources for educational programming.

PEG Channel Capacity

The educational community has generally enjoyed a positive relationship with the PEG access organizations around the issues of channel capacity. They have supported us with reasonable allocations of channel capacity given what they have had to work with. DCCA has been extraordinarily supportive of our efforts, writing this requirement into the recent franchise agreements, and all PEG access organizations have been gracious in working with us. **Most** recently, we have worked with the PEG access organizations to achieve a common Educational Access channel lineup throughout the State.

Of great concern is recent discussion at one of the PEG access organizations as to whether Education is really entitled to use PEG channels at no cost. A recent committee report suggested that the allocation of an Educational channel might carry a value of \$1 00,000 and that perhaps Education should be required to provide a *quid pro quo* for the channel given to it by the PEG access organization. From an educational perspective, this represents an extremely disturbing view of PEG and the role of accredited education in Educational Access programming. **The educational community would like to ensure continuing access to two educational channels with a consistent channel lineup on all islands.**

Connectivity into the Cable System

The educational community now has the critical mass to provide two channels of **24x7** Educational Access programming statewide. It is critical that the UH and **DOE** have high-quality interconnections to the cable systems. In some cases educational facilities have direct connections to the cable company, and in other cases educational facilities are physically connected via the PEG access organizations' head-end. There have been occasions in which the technical quality of the video signal on the Educational Access channels has been noticeably lower to cable viewers than that of the P channels programmed by the PEG access organization themselves, and we have had complaints about PEG access organization "bugs" superimposed over the educational programming we provide. **Education needs continued**

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connectivity into the cable systems on all islands, engineered in as direct and high-quality a manner as possible.

Allocation of Financial Resources for Educational Programming

At various times, various of the PEG access organizations have taken the position that allocation of resources to the DOE and UH for E access programming is a lower priority for use of PEG programming funds than P access programming. The two smallest PEG access organizations have no tradition of providing any PEG programming funds to accredited educational institutions to produce Educational Access programming. The two larger access organizations have in various years proposed or provided funding that ranges from 0% to 40% of the overall PEG revenues to support E access programming by accredited education.

Several years into Olelo's existence UH and DOE were notified by Olelo that PEG funding for E programming would be phased out completely. This caused significant concern and resulted in a dispute that became fairly public. The current agreement for Olelo to provide 25% of the PEG revenues to the Hawaii Educational Networking Consortium (a consortium of UH, DOE and HAI) for E access programming was memorialized in the franchise agreement by DCCA after a particularly contentious set of discussions that even involved legislative proposals and hearings. More recently, Akaku has terminated funding for E programming by the UH and DOE on Maui.

The general rationale behind this position is that the DOE and UH should get money for E programming from the State, but that P programming has no other obvious source of support. From the perspective of the educational community, not only are State funds shrinking every year, but we believe that PEG funds were intended to support all of P, E and G, not just the P access programming which is the primary focus of most of the PEG access organizations. The tone and substance of these discussions changes over time based on the leadership of the PEG access organizations, the membership on their boards, and the positions of the DCCA administration and the legislature.

Some of the allocations for E programming and associated rationales that have been proposed in the past are:

- 40% of PEG resources -- since E programs 2 of the 5 channels
- 33% of PEG resources -- since E is 1/3 of PEG
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There have also been discussions as to whether the smaller PEG access organizations should be absolved of responsibility for funding E since they do not have the same critical mass as the larger PEG access organizations, or whether the Oahu fees over the current "cap" should be assigned to support Educational Access on other islands.

The consistent position of Hawaii's educational community on this matter is that **E is a critical component of PEG and a predictable portion of PEG funding should be allocated to produce Educational Access programming so that multi-year commitments can be made to our students/viewers. This should be structurally embedded in public policy rather than the result of multiple individual annual negotiations, in order to avoid the contentious and destructive conversations that result from the perception in parts of the PEG community that P is really entitled to all the PEG resources and that whatever is allocated to E represents an unfair taking of "their resources."**

Institutional Network (I-Net)

One of the most important aspects of the cable franchise agreements for education is not part of the PEG provisions at all. Public education in Hawaii has developed an extraordinary telecommunications capability through the Institutional Network (I-Net) provisions of the current cable franchise agreements. The foresight of DCCA and the willingness of the cable operator to participate have been essential to the basic operation of the UH and the DOE. The I-Net provides dark fiber on each island for shared use by the UH and DOE with our third partner, the State of Hawaii as represented by the DAGS Information and Communication Services Division (ICSD). In addition, the cable operator is required to provide access to its interisland fiber capacity.

The three public partners, UH, DOE and ICSD, work together closely on the technical and financial requirements to leverage the I-Net capabilities made available. For UH, this capacity connects all our campuses and education centers to support distance learning for the public, access to library information, student registration processes, email between faculty and students, and all the general telecommunications needs of a public institution distributed throughout the State. For the DOE, the fiber provided through the I-Net ties complexes and major sites together into a statewide network that supports teaching and administration. In addition, many schools benefit from access to cable modem technology provided by the cable operator. This helped Hawaii become the first state in the country with high-speed Internet access to every public school in the State.

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The I-Net also ties together the State, UH and DOE for inter-institutional activities. For example, all the State's Internet access is supported by its I-Net connection to UH, which serves as the State's Internet Service Provider. Other routine data exchanges also utilize this capability.

In addition, it should be noted that the cable operator provides a physically distinct I-Net for the County on each island. This is an example of how the State franchising authority has supported the needs of the Counties.

While not raised as one of the issues for discussion, there could be enormous negative impact on the delivery of educational services to the State if the franchise framework or agreements were changed to eliminate this provision. For example, if cable franchising were assigned to the counties it is possible that public education might lose the I-Net capability on some or all islands, or between the islands. And in at least one case the PEG access organization **has** asserted some interest in playing a greater role in this non-PEG aspect of the franchise agreement.

Continued availability of the I-Net, both on each island and inter-island, is essential for public education. At a time when budgets are being cut throughout the public sector, the cost to replace this capability would be literally millions of dollars per year.

Education's Statewide Perspective

Hawaii's educational community has leveraged the cable television franchise agreements with a statewide perspective to help the residents of all islands. The Educational Access programming produced on each island is available on every other island if it is of general interest and applicability.

Even without a heavy-handed mandate to share PEG resources between islands, as has been proposed by some, Education has long been providing the benefits of the greater availability of PEG resources on Oahu to the residents of all islands. Similarly, the I-Net has been developed with a consistent technical architecture so that its advanced capabilities can support educational connectivity on the major islands and between them.

Education's statewide perspective extends beyond the E mission of Hawaii's educational institutions. UH provides HITS capacity during the legislative session to make legislative hearings available to cable viewers throughout on all islands, including on a live basis as of the 2003 Legislative session. This is something that cannot be accomplished with a purely county-based approach.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

CABLE DIVISION
COMMERCE AND
CONSUMER AFFAIRS

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2003-158

OFFICE OF THE SUPERINTENDENT

September 3, 2003

TO: The Honorable Mark Recktenwald, Director
Department of Commerce and Consumer Affairs

FROM: Patricia Hamamoto, Superintendent

SUBJECT: PEG ACCESS IN HAWAII

The Department of Education appreciates the opportunity to participate in the evaluation of issues relating to PEG access in Hawaii and to move forward on a statewide cable television franchising plan. For the past several years, we have worked with the University of Hawaii and the Hawaii Association of Independent Schools to develop a coordinated plan to deliver educational programming for statewide dissemination via cable.

Working in collaboration with the University of Hawaii and the Hawaii Association of Independent Schools, we have developed the enclosed statement as our shared input to the plan that you will be developing. The Department is faced with the challenge of redesigning a school system relevant for the 21st century and working to address the No Child Left Behind federal legislation. It becomes critical for all of us to be able to collaborate and share resources to build upon the telecommunication infrastructure that has been developed. The current and future franchise framework and agreements will critically affect our ability to provide instructional programs and supplemental services to our students statewide.

The Department of Education strongly supports the positions outlined in this statement and looks forward to further discussions. Our point-of-contact is David Lassner, Chief Information Officer for the University of Hawaii system, who can be reached at [redacted] or [redacted].

PH:gm

Enclosure

c: Office of Curriculum, Instruction and Student Support
Board of Education

**Statement of the
Department of Education, University of Hawaii and
Hawaii Association of Independent Schools
Regarding Cable Franchise Issues**

CABLE DIVISION
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Introduction

Hawaii's educational community notes with great interest the current evaluation of issues relating to Public, Education and Government (PEG) cable access programming and the intention to develop a new Statewide Cable Access Plan. Hawaii's educators were engaged in educational access programming before the birth of the PEG access organizations in Hawaii, and have been key participants in the discussions that led to the current franchising framework.

As a result of the consistently strong support of accredited education by DCCA for more than a decade, the current cable franchise agreements have provided Hawaii's educational community with an incredible opportunity to work together to serve the people of Hawaii on all islands. We collaborate primarily through the Hawaii Educational Networking Consortium (HENC), a decade-old partnership that now includes the University of Hawaii, the Department of Education and the Hawaii Association of Independent Schools. Collectively, we represent all accredited education in the State of Hawaii and we serve approximately 300,000 students at all levels on all islands.

We have become the single largest source of access programming by providing between one and two channels of educational programming on every island. We have used the channel capacity and the programming resources we have been able to obtain to increase educational opportunities on all islands. And we have worked together with the State of Hawaii to leverage the franchise agreements to develop a shared Institutional Network (I-Net) that is at the core of Hawaii's future in digital education and government. In addition, we serve the public interest by making legislative programming produced on one island available throughout the State, now on a live basis during session.

The stakes are high for our ability to continue to serve the public, so we view the current process with both concern and hope. On the one hand, drastic changes in the franchising framework such as assigning full responsibility for all aspects of cable franchising to the Counties might potentially result in the loss of countless educational opportunities for Hawaii's people and the loss of millions of dollars of services to the State, which we would be seeking new funds to replace. On the other hand, the current situation could be improved if the benefits we have achieved could be more formally and structurally

Statement from Education on PEG Access Issues

institutionalized to avoid the negative and energy-sapping contentiousness that has characterized many of the discussions around cable franchising and PEG access.

This statement lays out the key areas in which the cable franchise agreements are critical to providing educational services on all islands. We recognize that DCCA's Plan will balance the needs and perspectives of many organizations and individuals, and we hope we have respectfully provided both general background and specific ideas on how to ensure that the cable franchising authority currently vested with the State continues to serve as a tool to broaden access to education on all islands. We believe that there are many ways you can ensure that the new Plan will help us meet the educational needs of the people of Hawaii while still addressing the concerns raised by the Public Access constituency as outlined in your background document.

Questions may be referred to any of UH, DOE or HAIS, or to David Lassner, Chief Information Officer of the University of Hawaii (956-3501, david@hawaii.edu), who can coordinate the provision of further details or information about HENC and the criticality of the cable franchise agreements to our collection mission to advance educational opportunity for people throughout the State of Hawaii.

Statement from Education on PEG Access Issues

Executive Summary

Hawaii's cable franchising has been a vital component of the ways in which Hawaii's educational community has served the people of Hawaii. The University of Hawaii, Department of Education and Hawaii Association of Independent Schools have worked together, primarily through the Hawaii Educational Networking Consortium (HENC) to leverage this opportunity for the people of all islands. The Department of Commerce and Consumer Affairs has been a strong supporter of education and our work for over a decade.

The current statewide approach has ensured availability of educational access cable channels on all islands, which we have recently negotiated to achieve consistent educational channel lineups on all islands. Unfortunately, the availability of financial resources from the PEG access organizations to support the Educational or E component of PEG has been less consistent and the source of many unproductively contentious discussions, including right now in Maui County. In addition to the PEG aspects of the franchise agreement, the I-Net provisions of the cable franchise agreements are critical to serving our under-funded public schools, campuses and education centers statewide.

Our major concern is ensuring the continuing availability of these essential resources, no matter how the issues relating to Public access or P programming are resolved. To that end, our most favored future would provide for the following:

- 1) Direct assignment of two dedicated channels on all islands for educational programming from accredited educational institutions – one at the **K12** level and one for Higher Education programming – with high-quality connections from educational origination facilities into the cable networks.
- 2) A firm decision institutionalized in public policy that maximizes the level of PEG programming resources allocated to support production of E programming on these channels -- without continued pitting of Hawaii's educational community against the proponents of P programming in a zero-sum game that is constantly and contentiously negotiated and renegotiated.
- 3) Continued commitment to the Institutional Network to serve the State's public education and government institutions.

We believe these should be statewide commitments so that we can maximize access to educational opportunities for Hawaii's people on all islands.

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HAWAII ASSOCIATION OF INDEPENDENT SCHOOLS

30 Years of Promoting Choice and Preserving Independence

CABLE DIVISION
COMMERCE AND
CONSUMER AFFAIRS

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2003-159

August 29, 2003

Mr. Mark Recktenwald, Director
Department of Commerce and Consumer Affairs
1010 Richards Street, 2nd Floor
Honolulu, Hawaii 96813

Dear Director Recktenwald:

The Hawaii Association of Independent Schools notes with great interest your current evaluation of issues relating to PEG access and cable television franchising. We have worked together with our colleagues from the Department of Education and the University of Hawaii for many years on these matters.

Our organizations have collaborated to develop the enclosed statement as our shared input to the Plan you will be developing. The cable television franchise framework and agreements are critical to the accredited educational institutions in the State of Hawaii and our ability to serve some 300,000 students statewide.

The Hawaii Association of Independent Schools strongly supports the positions outlined in this statement and looks forward to discussing our hopes and concerns with you so that you can understand the importance to education of the resources under your stewardship.

Please contact me at 973-1535 or robertw@hais.org should you have questions that I may be able to address. David Lassner, Chief Information Officer for the University of Hawaii system, is also available for inquiries and can be reached at 956-3501 or [REDACTED]

Sincerely,

Robert M. Witt
Executive Director

Enclosure

Statement of the
Department of Education, University of Hawaii and
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Regarding Cable Franchise Issues

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PEG Access and Education

The principles of PEG access call for three strong components: Public, Education and Government programming. As participants in the original public meetings that led to the current approach to franchising, the University and **DOE** stressed the importance of Educational Access programming and our commitment to serve the public through cable television. We believe these representations and commitments were significant factors in DCCA's original decision to allocate 3% of gross revenue for all of Public, Education and Government programming and in deciding how many PEG channels to allocate.

Hawaii's accredited educational institutions have indeed embraced the opportunities provided by the franchise agreements to serve the public throughout Hawaii via cable television. Without belaboring our accomplishments, we have provided an Associate of Arts degree via cable television statewide by leveraging and coordinating the efforts of UH campuses on different islands, we have provided language instruction (including Hawaiian language) statewide, we are providing certification programs for educational assistants statewide to help comply with the No Child Left Behind (NCLB) Act, we are providing certification for teachers statewide to meet NCLB requirements, we provide courses for students in schools throughout the State in subject areas where schools do not all have teachers available, and we provide a variety of informational programs that serve the 250,000 (300,000) students, faculty and staff of Hawaii's educational community and the public-at-large. One of the newest Educational Access projects is the collaborative work between the DOE and DCCA to develop and present an educational television series for the public on "Financing Your Future."

The current franchise agreements are consistent across the State. But they place responsibility for all aspects of Public, Education and Government access programming under the auspices of county-based private non-profit organizations: the PEG access organizations. This has meant that to provide educational programming to the entire State via cable TV, the education community has had to work and negotiate separately with four independent organizations. These organizations have exhibited shifting priorities and variable commitments to Educational Access programming by Hawaii's educational institutions. At times, some of the relationships have been quite contentious. The basic problem is that any resources allocated to educational institutions for Educational Access programming are sometimes viewed by the PEG access organizations as taking resources out of the

Statement from Education on **PEG** Access Issues

hands of the Public Access programmers, who are generally viewed as the primary constituency of the PEG movement.

We would like to review three specific aspects of PEG access that are of particular concern to education: PEG channel capacity, connectivity into the cable systems via the PEG Network, and the allocation of financial resources for educational programming.

PEG Channel Capacity

The educational community has generally enjoyed a positive relationship with the PEG access organizations around the issues of channel capacity. They have supported us with reasonable allocations of channel capacity given what they have had to work with. DCCA has been extraordinarily supportive of our efforts, writing this requirement into the recent franchise agreements, and all PEG access organizations have been gracious in working with us. Most recently, we have worked with the PEG access organizations to achieve a common Educational Access channel lineup throughout the State.

Of great concern is recent discussion at one of the PEG access organizations as to whether Education is really entitled to use PEG channels at no cost. A recent committee report suggested that the allocation of an Educational channel might carry a value of \$100,000 and that perhaps Education should be required to provide a *quid pro quo* for the channel given to it by the **PEG** access organization. From an educational perspective, this represents an extremely disturbing view of PEG and the role of accredited education in Educational Access programming. The educational community would like to ensure continuing access to two educational channels with a consistent channel lineup on all islands.

Connectivity into the Cable System

The educational community now has the critical mass to provide two channels of 24x7 Educational Access programming statewide. It is critical that the UH and **DOE** have high-quality interconnections to the cable systems. In some cases educational facilities have direct connections to the cable company, and in other cases educational facilities are physically connected via the PEG access organizations' head-end. There have been occasions in which the technical quality of the video signal on the Educational Access channels has been noticeably lower to cable viewers than that of the P channels programmed by the PEG access organization themselves, and we have had complaints about PEG access organization "bugs" superimposed over the educational programming we provide. Education needs continued

Statement from Education on PEG Access'issues

connectivity into the cable systems on all islands, engineered in as direct and high-quality a manner as possible.

Allocation of Financial Resources for Educational Programming

At various times, various of the PEG access organizations have taken the position that allocation of resources to the DOE and UH for E access programming is a lower priority for use of PEG programming funds than P access programming. The two smallest PEG access organizations have no tradition of providing any PEG programming funds to accredited educational institutions to produce Educational Access programming. The two larger access organizations have in various years proposed or provided funding that ranges from 0% to 40% of the overall PEG revenues to support E access programming by accredited education.

Several years into Olelo's existence UH and DOE were notified by Olelo that PEG funding for E programming would be phased out completely. This caused significant concern and resulted in a dispute that became fairly public. The current agreement for Olelo to provide **25%** of the PEG revenues to the Hawaii Educational Networking Consortium (a consortium of UH, DOE and HAIS) for E access programming was memorialized in the franchise agreement by DCCA after a particularly contentious set of discussions that even involved legislative proposals and hearings. More recently, Akaku has terminated funding for E programming by the UH and DOE on Maui.

The general rationale behind this position is that the DOE and UH should get money for E programming from the State, but that P programming has no other obvious source of support. From the perspective of the educational community, not only are State funds shrinking every year, but we believe that PEG funds were intended to support all of P, E and G, not just the P access programming which is the primary focus of most of the PEG access organizations. The tone and substance of these discussions changes over time based on the leadership of the PEG access organizations, the membership on their boards, and the positions of the DCCA administration and the legislature.

Some of the allocations for E programming and associated rationales that have been proposed in the past are:

- 40% of PEG resources -- since E programs 2 of the 5 channels
- 33% of PEG resources -- since E is $\frac{1}{3}$ of PEG
- 25% of PEG resources – since HENC and Olelo agreed on that percentage in order to end the mutually harmful public bickering

Statement from Education on PEG Access Issues

There have also been discussions as to whether the smaller PEG access organizations should be absolved of responsibility for funding E since they do not have the same critical mass as the larger PEG access organizations, or whether the Oahu fees over the current "cap" should be assigned to support Educational Access on other islands.

The consistent position of Hawaii's educational community on this matter is that **E is a critical component of PEG and a predictable portion of PEG funding should be allocated to produce Educational Access programming so that multi-year commitments can be made to our student viewers. This should be structurally embedded in public policy rather than the result of multiple individual annual negotiations, in order to avoid the contentious and destructive conversations that result from the perception in parts of the PEG community that P is really entitled to all the PEG resources and that whatever is allocated to E represents an unfair taking of "their resources."**

Institutional Network (I-Net)

One of the most important aspects of the cable franchise agreements for education is not part of the PEG provisions at all. Public education in Hawaii has developed an extraordinary telecommunications capability through the Institutional Network (I-Net) provisions of the current cable franchise agreements. The foresight of DCCA and the willingness of the cable operator to participate have been essential to the basic operation of the UH and the DOE. The I-Net provides dark fiber on each island for shared use by the UH and DOE with our third partner, the State of Hawaii as represented by the DAGS Information and Communication Services Division (ICSD). In addition, the cable operator is required to provide access to its interisland fiber capacity.

The three public partners, UH, DOE and ICSD, work together closely on the technical and financial requirements to leverage the I-Net capabilities made available. For UH, this capacity connects all our campuses and education centers to support distance learning for the public, access to library information, student registration processes, email between faculty and students, and all the general telecommunications needs of a public institution distributed throughout the State. For the DOE, the fiber provided through the I-Net ties complexes and major sites together into a statewide network that supports teaching and administration. In addition, many schools benefit from access to cable modem technology provided by the cable operator. This helped Hawaii become the first state in the country with high-speed Internet access to every public school in the State.

Statement from Education on PEG Access Issues

The I-Net also ties together the State, UH and DOE for inter-institutional activities. For example, all the State's Internet access is supported by its I-Net connection to UH, which serves as the State's Internet Service Provider. Other routine data exchanges also utilize this capability.

In addition, it should be noted that the cable operator provides a physically distinct I-Net for the County on each island. This is an example of how the State franchising authority has supported the needs of the Counties.

While not raised as one of the issues for discussion, there could be enormous negative impact on the delivery of educational services to the State if the franchise framework or agreements were changed to eliminate this provision. For example, if cable franchising were assigned to the counties it is possible that public education might lose the I-Net capability on some or all islands, or between the islands. And in at least one case the PEG access organization has asserted some interest in playing a greater role in this non-PEG aspect of the franchise agreement.

Continued availability of the I-Net, both on each island and inter-island, is essential for public education. At a time when budgets are being cut throughout the public sector, the cost to replace this capability would be literally millions of dollars per year.

Education's Statewide Perspective

Hawaii's educational community has leveraged the cable television franchise agreements with a statewide perspective to help the residents of all islands. The Educational Access programming produced on each island is available on every other island if it is of general interest and applicability.

Even without a heavy-handed mandate to share PEG resources between islands, as has been proposed by some, Education has long been providing the benefits of the greater availability of PEG resources on Oahu to the residents of all islands. Similarly, the I-Net has been developed with a consistent technical architecture so that its advanced capabilities can support educational connectivity on the major islands and between them.

Education's statewide perspective extends beyond the E mission of Hawaii's educational institutions. UH provides HITS capacity during the legislative session to make legislative hearings available to cable viewers throughout on all islands, including on a live basis as of the 2003 Legislative session. This is something that cannot be accomplished with a purely county-based approach.



CABLE DIVISION
COMMERCE AND
CONSUMER AFFAIRS

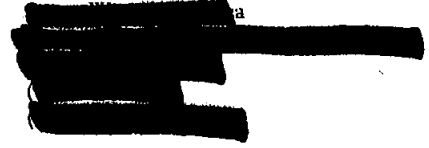
Stanley W. Hong
President

SEP 5 2 50 PM '03

WASTE MANAGEMENT OF HAWAII, INC.

AUG 27 2003

FILE



2003-160

August 27, 2003

Mr. Mark Recktenwald, Director
State Dept. of Commerce & Consumer Affairs

Dear Mr. Recktenwald:

Mahalo nui loa for providing the opportunity for island communities to comment on the draft cable plan. I am a board member of PBS Hawaii, which receives 1 percent of the state's cable franchise fee. The fee is very important to PBS Hawaii and represents approximately 34 percent of the station's annual budget. This is vitally needed!!

The mission of PBS Hawaii is to provide quality, commercial free broadcast television programs to the people of Hawaii. Our programming is meant to inspire, inform, entertain, and educate the community. PBS Hawaii is a non-profit organization that used to be an agency of the state under your department. And now that we are a private non-profit entity, these funds are important in helping us to maintain our mission.

Of all the beneficiaries of the franchise fee, PBS Hawaii is the only broadcaster licensed by the FCC.

PBS Hawaii serves the entire state, not just the individual counties, with free non-commercial PBS programs of both national and local interest. We serve many rural communities who are otherwise not served by cable, PEG and commercial broadcasters.

Our primary desire is to keep the existing conditions and relationship with the DCCA and Time Warner Oceanic Cable. I greatly appreciate this opportunity to share the great value to PBS in Hawaii and it's people.

Thank you for your time and consideration.

Aloha nui loa,

Stanley Hong
Board Member
PBS Hawaii

CABLE DIVISION
COMMERCE AND
CONSUMER AFFAIRS

SEP 5 2 50 PM '03

A... E... I... S...

FILE

2003-161

September 2, 2003

Mr. Mark Recktenwald
Director
Department of Commerce and Consumer Affairs
1010 Richards Street
Honolulu, Hawaii 96813

Subj: Hawaii Public Television, Franchise Fee

Dear Mr. Recktenwald:

I am writing this letter in support of Hawaii Public Television's (HPTV) allocation of franchise fees. As you are aware, HPTV provides a valuable service to the Hawaii community and is in need of governmental assistance.

I, as well as many other members of the Hawaii community, would appreciate your consideration of this worthy non-profit organization.

Respectfully,



Bill D. Mills

BILL MILLS INVESTMENTS, LLC



CABLE DIVISION
 COMMERCE AND
 CONSUMER AFFAIRS
 SEP 5 2 50 PM '03
 SEP 5 2 50 PM '03
 FILE

Mr. Mark Recktenwald, Director
 State Dept. of Commerce & Consumer Affairs

Dear Mr. Recktenwald:

Thank you for providing the opportunity for island communities to comment on the draft cable plan. I am a board member of PBS Hawaii which receives 1 percent of the state's cable franchise fee. The fee is very important to PBS Hawaii and represents approximately 34 percent of the station's annual budget.

2003-162

The mission of PBS Hawaii is to provide quality, commercial free broadcast television programs to the people of Hawaii. Our programming is meant to inspire, inform, entertain and educate the community. PBS Hawaii is a nonprofit organization that formerly was an agency of the state under DCCA. Now that we are a private nonprofit entity, the franchise fee funds are important in helping us to maintain and expand our mission. Out of all the recipients of the franchise fee, PBS Hawaii is the only broadcaster licensed by the FCC.

PBS Hawaii has been serving the state of Hawaii since 1967 providing commercial free television at no cost to the community. Simply put, there are no fees attached to receiving our programs.

PBS Hawaii serves the entire state, not just the individual counties. with free non-commercial PBS programs of both national and local interest. We serve many rural communities which are otherwise not served by cable, PEG and/or commercial broadcasters.

Most of our franchise fee funds are used to pay for equipment and operations relating to providing educational statewide broadcast at no cost to the community. Our future use for the fee will go toward helping this station meet the federal mandate for digital broadcast capability which is required to maintain our broadcasting license.

We at PBS Hawaii are committed to providing quality television programming to the entire state and we are cognizant of the unique role we play in Hawaii broadcasting. We value the relationship we have had with DCCA and Oceanic Time Warner Cable and we look forward to the continuation of that relationship. Together, we can accomplish so much. Thank you for this opportunity to share the value of PBS in Hawaii's communities.

Sincerely yours,

Cheryl K. Hetherington
 CHERYL K. HETHERINGTON

**Dr. Wayne M. Johnson
Chiropractic Physician**

CABLE DIVISION
COMMERCE AND
CONSUMER AFFAIRS

SEP 5 2 55 PM '03

FILE

2003-103

September 02, 2003

*Cable Television Division
Department of Commerce and Consumer Affairs
1010 Richards Street, 2nd Floor
Honolulu, Hawaii 96813*

Attention: Chairman Rechtenwald

Aloha Mr. Chairman,

Thank you for allowing me the opportunity to speak directly with you and colleagues on Monday evening August 25, 2003. I am a licensed health care provider in Arizona, California and the great aloha state of Hawaii. My bride Penny has -30- years of commercial radio and television experience. With this information given to you, I would like you to know that my opinions are based on physical operating cost and are not weighed by an emotional component.

When Penny and I moved to the aloha state in 1999 we virtually had the opportunity to research and evaluate for over -10- years which island we would relocate on. We chose Oahu because of its cultural diversity and amenities.

Two years ago I decided that I wanted to expand my own personal and professional goals. As an ex-Marine, I was exposed to the Armed Forces Radio and Television Network and the Far East Network. With this in mind I started a year long search for an opportunity to reenter media.

The Veteran's Administration, via the G.I. bill, virtually paid for all of my -8- years of education which of course was related to physical medicine and rehabilitation. With no formal media credentials, my efforts on the island were greatly hindered. Commercial television and radio stations as well as PBS were not interested in my efforts to learn something new. I eventually was introduced to the possibilities of volunteering for O'lelo Community Access Television.

Because of the my training at O'lelo and subsequent volunteer hours as required for this training, I currently have -7- projects being aired on community television. As a resident on Oahu, each of these projects reflect the social aspects of Hawaii and issues of importance from the "Homeless Hawaiian" to the "Abused Spouse".

With -80%- of Hawaii's residents living on Oahu, we do have density issues and the increased population brings with it the daily stresses of congestion, pollution, waste, physical abuse and illegal drugs. O'lelo Community Television allows all island residents to share their concerns and voice their opinions in a positive and extremely professional venue.

The benefits of O'lelo programming to the general population on Oahu are unique and specific. Local programming that is free of commercials and bias are created and produced by local talent addressing local issues. All of Oahu residents have the same opportunity to learn, experience and express themselves with the technical expertise of the O'lelo staff guiding their final productions to the airways of Oahu.

Having had the opportunity and privilege of working in the health care industry for -25- years, I saw first hand the damage and chaos that managed health care created by trying to control funding for required treatment. Essential in house treatment decisions needed to be made by the primary physician who physical saw the patient not a 3rd party miles

away who would base the decision on a spread sheet. I believe that allowing the county to redistribute funds based on a spread sheet would create the same financial chaos for community television and lacking of proper funding will be injurious to the training, production and quality of existing O'lelo programming that each and every Oahu resident currently enjoys.

I am therefore encouraging DCCA to continue with the current financial structure known as O'LELO TV.

I would also like to mention a "hot" proper issue that was raised by a PBA person during the meeting of August 25, 2003. This person called for a full audit of the students and client turnover at O'lelo Community Television. Yes there are many young people who find their way to O'lelo and receive either 'free' or 'low-cost' training and then quickly leave! While being associated with O'lelo during the past 8 months I have seen some of these turnover students and their departures are NOT related to training but their assumption that they can utilize any or all of O'lelo equipment for their own personal projects once they complete a class. The media center does a wonderful job on maintaining all of the equipment as well as giving us advice on the use and care of this equipment.

In closing I would ask the DCCA to allow O'lelo the opportunity to continue to maintain and control its current budget so that ALL of the residents of Oahu can enjoy commercial free programming that is designed to inform, educate and entertain.

Thank you for any consideration that you may show this request.

Sincerely yours

Wayne M. Johnson D.C. - [REDACTED]



"Libette Garcia" [REDACTED] on 09/05/2003 11:44:19 AM

2003-104

Please respond to [REDACTED]

To: cabletv@dcca.hawaii.gov

cc:

Subject: Funds for Oahu Olelo

Aloha,

Please consider the appropriating of funds of Oahu to remain for Oahu. I am sure there are other ways to fund the other islands. Thank you for being creative in this endeavor. I enjoy using the Olelo facilities very much and am aware that there are always needs to be met and would not favor more strain on Oahu's budget.

Mahalo, Libette

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The most personalized portal on the Web!



Bruce Magers [REDACTED] on 09/05/2003 03:10:58 PM

2003-167

o: cabletv@dcca.hawaii.gov

cc: [REDACTED]

Subject: DCCA Plan for PEG Access

Dear Sirs and Madams,

My name is Bruce Magers. I live in [REDACTED] with my wife and three children. My wife and I are Olelo clients, having been involved in community programming for the last three years. Although I am employed by Olelo, my concerns are genuine and not driven by any "sense of duty" to my employer. They are based on my experience as a producer of, and a volunteer for community based television programs.

As I am sure you are well aware, there was a note-worthy turnout for the August 25, 2003 DCCA public hearing at the Queen Liliuokalani Building. While a few well versed detractors were present, they were outnumbered by a vast majority of Oahu community members who have made use of and been served by Olelo Community Television and who spoke in glowing terms of their experiences with and at Olelo. Although many of these community members, who represented nearly all of the varied demographics on Oahu, were not clear on the specifics of the issues outlined in the draft proposal, one theme repeated itself throughout the evening: Don't change the current structure.

A PDF of the DCCA draft is available on-line:

<http://www.hawaii.gov/dccalpdf/cabletv-discussion.pdf>

The following is a point by point breakdown of my personal views on the items, as I feel informed to comment on them, outlined in the DCCA Plan for PEG Access:

ISSUE #1: Expanded Role for Counties in Cable Regulation

Option 1: Continue with current framework

It would seem obvious that the State has the greatest amount of bargaining power with the cable television industries. To divide this power among the counties may seem, at the outset, like an opportunity to provide localities with autonomy in terms of deciding what the communities access needs are. However, the net result will be a **loss** for all. To pursue Option 2 plays directly into the hands of industry corporations who have a divide and conquer mentality when it comes to PEG access.

ISSUE #2: Governance - PEG Board Appointment Process

Option 1: Continue with current appointments by the DCCA and cable operator

This issue is worthy of independent discussion, public input, and presentation on the pro's and con's of each option. Until such time as the matter can be properly researched and presentations made, Option 1 is should remain in effect.

ISSUE #3: Cable Advisory Committee

Option 1: Appoint members to the CAC

My understanding of the original intent of this committee was to provide the public and the DCCA with independent guidance for matters pertaining to cable television and PEG access. Despite the appearance that "the prior Administration believed that the CAC...had outlived that role," I believe that the guidance of this committee could have prevented some of the mis-steps that have occurred in the governance of PEG access.

ISSUE #4: Financial Resources

Option 1: Continue with the current financial structure

The current financial structure insures that the cable access benefits due to Oahu's residents are received by Oahu's residents. To "redistribute franchise fees so that neighbor islands receive a larger percentage of the statewide total" is inequitable and unprecedented. There are smaller communities on Oahu who are just beginning to realize the potential of community access. Redistribution of funds would preclude the process of serving these communities.

ISSUE #5: PEG Channel Resource

When considering this issue the DCCA should remain mindful of the benefits "re-run programming." In order for a community to be well informed on an issue, it needs to have access to that information. A one-time airing of a program on a pivotal issue does not allow for easy access to that information. Multiple airings of programs allows for citizens of varied schedules to gain access to the information regarding issues in their communities. Cable Access re-run programming serves the community in a way that commercial television cannot.

ISSUE #6: Sustainability

Without the revenues generated franchise fees it is unlikely that public access would continue as a viable service, even with the assistance of outside sources. A for profit model of operation would erode the foundation and the basic principles on which access was created. Imagine; "Free speech brought to you by: (your favorite corporation here)."

ISSUE #7: Greater Community Participation

As was presented with specificity by the majority of participants in the recent hearing, Olelo is a role model in the areas specifically mentioned in this issue.

ISSUE #8: Cooperation and Collaboration Among PEG Organizations

Collaboration between access centers is a work in process. The DCCA should keep in mind that homogenization of resources may not be an attainable goal. If pursued without due consideration it would actually result in a lowest common denominator system. A few communities would benefit while those that are currently being served would see a diminished level of access to facilities and equipment. Creating a rivalry for funding serves only to alienate access centers from each other, thus hampering the facilitation of the aforementioned process. The goal should be to move everyone forward.

ISSUE #10: Chapter 92F / Uniform Information Practices Act (OIP opinion dated 09-06-02) : Openness

to the Public Records

Option 1: Legislative modifications to amend requirements

While openness is a necessity, if the current requirements of UIPA hamper the ability of PEG centers to conduct routine business, a solution must be found that insures openness and accountability while maintaining the ability of those entities to carry out their functions.

ISSUE ~~#11~~ Daily operational procedures - responsibility of each PEG

Each access center should have these rules and procedures specifically and unequivocally outlined and available to the clients.

ISSUE #12: Development of technical standards

The pursuit of this goal, while noble, brings with it certain pitfalls previously addressed in issue #8... "The DCCA should keep in mind that homogenization of resources may not be an attainable goal. If pursued without due consideration it would actually result in a lowest common denominator system. A few communities would benefit while those that are currently being served would see a diminished level of access to facilities and equipment. The goal should be to move everyone forward."

ISSUE #13: Review of connectivity (PEG Network) currently provided by T W E

I will not comment on this issue at this time.

ISSUE #14: Programming (CSPAN for Hawaii)

Olelo, in cooperation with the legislature and community producers, already airs coverage of these events. This coverage could be increased with the addition of channels. A separate entity to provide this coverage could only be possible through the duplication of equipment and facilities already available.

ISSUE #15: Resolution of complaints concerning PEGs

This role of the DCCA seems reasonable as outlined.

ISSUE #16: Role of PEGs: Production versus Facilitation

It is clear, based on the testimony of a number of groups and individuals present at the hearing, that facilitation is a necessary component of access. Without facilitated programming it is likely that certain organizations and individuals would be unable to bring their ideas and issues to the attention of the communities concerned.

In conclusion, I am hopeful that each and all of these issues will be addressed, with due respect given to the views expressed by all the individuals, groups and communities concerned. Access on Oahu works.

It is important to continue supporting access by maintaining the resources we have, while empowering and assisting the growth of access centers on the outer islands. Short changing Oahu citizens by taking away from their resources is not the answer. The goal should be to move everyone forward.

Respectfully

Bruce Magers

A solid black rectangular redaction mark covering the signature of Bruce Magers.



Patti K Kodama
09/05/2003 04:06 PM

2003-166



To: cabletv@dcca.hawaii.gov
cc:

Subject: Issue # 18 Reporting Requirements in PEG Contracts

Jeff Garl ~~<digitaleye@hinet>~~

To: DCCA Director Mark Recktenwald ~~<mrecktenwald@dcca.hawaii.gov>~~

09/02/2003 10:13 AM

a: Hawai'i State Ethics Commission ~~<dis@hawaii>~~

Subject: Issue # 18 Reporting Requirements in PEG Contracts

Aloha Director Recktenwald,

It has long been pointed out to DCCA CATV that the reporting requirements of the 1998 PEG Agreements lacked any meaningful information that could be used in a proper evaluation of Hawai'i PEG Access organizations' performance. If you **look** at the requirements in the Annual Activity Reports' pertaining to programming documentation, please note that the PEGs are **only** required to provide premiere and repeat program information, but do not have to identify whether the programs are local origination, non local origination or produced using PEG facilities which in its current form do not allow for a proper evaluation as to whether the PEGs are fulfilling their mission per their Bylaws and Articles of Incorporation. Your CATV administrator was made aware of this back in 1999 when I pointed out to him that 'Olelo is including overnight satellite fed programs as well as local professional productions in their figures, and that the numbers he was provided with did not even add up correctly. He found this amusing, but to date nothing has been done to change this and what makes me angry is that Mr. Sonobe's division actually weakened the PEG Access organizations' reporting requirements in the current agreements from their previous ones.

I do hope you will take this into consideration as you go forward with your next draft of the DCCA PEG **Plan**. I would be happy to provide assistance in helping draft proper reporting requirements.

Sincerely,

Jeff Garland

President, **Community** Television Producers Association (**CTPA**)

Patti K Kodama
09/05/2003 04:07PM

2003-167

To: cablelv@dcca.hawaii.gov
cc:

Subject: Written Comments on Draft OCCA Plan Part I

"LurlineMcGregor"

To: <Clyde.Sonobe@dcca.hawaii.gov>,
<Mark.E.Recktenwald@dcca.hawaii.gov>
cc: <Glen.WY.Chock@dcca.hawaii.gov>
Subject: Written Comments on Draft DCCA Plan Part I

09/05/2003 0203 PM

Aloha Mark,

I am sending 'Olelo's written comments on the Draft DCCA Plan in three emails:
Part I is the Board's comment and my oral testimony at the hearing; Part II
is a transcript of the O'ahu hearing; and Part III is a transcript of Bob
Devine's Presentation to the 'Olelo Board on "The Promise of Access", which is
relevant to the Draft Plan.

I will also mail a hard copy of this material via U.S. mail this afternoon.

Thanks!

Lurline



- Written Comments on DCCA Draft Plan.doc



- Lurline- Oral Comment for DCCA Plan.doc

Written Comments on DCCA Draft PEG Access Plan

Submitted by
Lurline Wailana McGregor
President/CEO, 'Olelo Community Television
On Behalf of the 'Olelo Board of Directors

These written comments specifically address the DCCA Statewide Draft Plan and have been approved by the 'Olelo Board of Directors. My verbal comments that I presented before the DCCA on August 25th are attached to this document and address the broader, more historical purposes of PEG access. Additionally, I have attached a transcript of national public access expert Bob Devine's presentation to the 'Olelo Board ("The Promise of Access") from this past April 19th, 2003. His comments are relevant to the purpose of PEG access and directly address some of the issues raised in the Statewide Plan. Noting the absence of a court reporter, we have also taken the liberty of transcribing each person's testimony at the August 25th hearing, which are also attached to this document.

Issue #1. Expanded Role for Counties in Cable Regulation

Support Option 1: "Continue with current framework".

State regulation of the cable industry in a state as small as Hawai'i provides maximum efficiency for the cable company as well as for the individual access centers. Although federal law prohibits regulation of cable television as a public utility, the industry nevertheless has a number of attributes (market power, infrastructure, etc) similar to those of public utilities, which supports the need for state regulation. It is not clear that the counties are equipped or even willing to assume the responsibility of cable regulation. There is no evidence to demonstrate that state regulation has been problematic or that the needs of different islands are so unique that control would be more effective on a local level. Some of the downsides of county involvement in cable regulation include needing individual county expertise on cable issues, which may mean additional staff positions for each county (duplication of bureaucracy) and less money for each PEG center; less clout in dealing with cable companies for refranchisement; and different levels of support for PEG in each county. It is not clear that any benefits of county involvement are to be derived.

Issue #2. Governance - PEG Board Appointment Process

Support Option 2: Self appointment by the PEG Boards

The 2002 OIP opinion that states that PEGS are subject to the Hawai'i State Uniform Information Practices Act was based, in part, on the involvement of DCCA in the PEG'S board appointment process. As this decision brings PEGS a step closer to being considered a state agency, it is advisable that PEG boards become self appointing to provide more of an arm's length relationship with state government and to protect the state from the perception of exercising content control through access activities.

PEG boards are responsible (and liable) for making decisions that will result in the best community use of the resources. It is therefore important that board members understand their policy and fiduciary roles and are committed to serving this community purpose.

Issue #3. Cable Advisory Committee

The 'Olelboard has no formal position on this issue. Since the purpose of the CAC is to advise the DCCA Director on cable television matters, it should be within the purview of the Director to decide whether to have a CAC and how it should be constituted. If cable regulation is maintained at the state level, it may be feasible to keep the CAC and include members from each county government and each PEG access center to assure that unique county needs are addressed.

Issue #4. Financial Resources

Support Option 1: Continue with current financial structure

County distribution of franchise fees by cable subscribers as of June 2003:

	Franchise Fees*		Cable Subscribers*	\$
per subscriber				
Hawai'i	\$577,812	\$31,414	\$15.42	
Kaua' i	\$284,259	\$21,055	\$13.50	
Maui	\$659,074	\$49,343	\$13.36	
o ahu	\$3,810,393	\$212,400	\$14.21	

County distribution of franchise fees per population base as of July, 2002:

	Franchise Fees		Population**	\$
per subscriber				
Hawai' i	\$577,812	154,794	\$3.73	
Kaua' i	\$284,259	59,946		\$4.74
Maui	\$659,074	134,007	\$4.92	
O' ahu	\$3,870,393	896,019		\$4.32

* per DCCA

** per U.S. Census

Based on these statistics, it is apparent that cable revenues are already divided proportionately. Any change in the current structure should be justified based on a statewide needs analysis and proposed use of additional funds, including sustainability and accountability.

A needs analysis has been done on O'ahu, where there are now four satellite centers (Leeward Community College, Wai'anae, Kahuku and Palolo) that serve underserved areas. These analyses were first done to identify which communities were underserved, which communities would support a PEG satellite and what would be necessary to fulfill this community need. Underserved areas are defined by geographic remoteness from the Mapunapuna site and a user profile of 'Olelo users compared to O'ahu residents based on race, age and different socioeconomic factors. There are still underserved areas on O'ahu, including Windward O'ahu, Waipahu and Wai'anae, for which 'Olelo has scheduled for satellite centers in the future.

A redistribution of revenues does not guarantee that underserved communities will receive adequate or appropriate PEG services.

There are underserved areas on each island, from Hanalei to Hana to Waimanalo to Ka'u. Over the past five years, 'Olelo's franchise fees have eroded. This started in 1998 with our commitment of 25% of our annual franchise fees to the education community, which we pay out every January. In 1999, the DCCA director made revisions to the Directive and Order that governs us and capped 'Olelo's annual franchise fee at \$3.1 million. Finally, federal court actions over the past three years have eliminated cable modem fees from our franchise revenues, which now does not even bring our income to the level of the cap. Cable subscriptions on O'ahu are not likely to grow, and in fact, will probably shrink as satellite takes a greater share of the market. Without revenue growth potential, a further erosion or redirection of 'Olelo's annual franchise fees will seriously impair our ability to continue to serve our own community,

ncluding the communities on O'ahu that we have not yet adequately served.

Nevertheless, we are strongly supportive of helping underserved communities, including those statewide. Our satellite centers in Wai'anae, Kahuku, Leeward Community College and now Palolo underscore our commitment to this purpose. 'Olelois willing to commit staff resources to work with neighbor islands to do needs analyses of their counties, to develop goals and a plan to develop satellite centers to serve underserved areas and to create evaluation tools to assure that the centers are fulfilling community needs.

Regarding the legality of such a transfer of revenue fees, a change in the current financial distribution structure could result in a possible interference in the rate structure for cable operators regulated by the FCC.

In general, DCCA's rate regulations require that cable operators comply with FCC rate regulations. See Haw. Admin. R. § 16-133-40 (requiring the director of DCCA to regulate rates "in conformance with any applicable FCC rules governing cable rate regulation").

47 U.S.C. § 543(b)(1) empowers the FCC to ensure that the rates for the basic service tier ("basic cable service") charged by cable operators are reasonable. "Such regulations shall be designed to achieve the goal of protecting subscribers of any cable system that is not subject to effective competition from rates for the basic service tier that exceed rates that would be charged for the basic service tier if such cable system were subject to effective competition." 47 U.S.C. § 54(b)(1). Thus, the rate charged to customers for basic cable service should be at a hypothetically competitive rate, even if there is only a single provider.

In establishing regulations to achieve this goal, the FCC must take into account a number of factors, including, "any amount required, in accordance with paragraph (4), to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels or any other services required under the franchise." 47 U.S.C. § 543(b)(2)(C)(vi). Section 543(b)(4) provides that the regulations prescribed by the FCC "shall include standards to identify costs attributable to satisfying franchise requirements to support public, educational and governmental channels or the use of such channels or any other services required under the franchise." 41

U.S.C. § 543(b)(4). "Franchise requirement costs" may include amounts required by the franchising authority for costs of providing PEG access channels and costs of PEG access programming. 47 C.F.R. §§ 76.925(a)(1)-(2). The costs of satisfying franchise requirements to support PEG channels shall consist of the sum of: (1) all per channel costs for the number of channels used to meet franchise requirements for public, educational, and governmental channels; (2) any direct costs of meeting such franchise requirements; and (3) a reasonable allocation of general and administrative overhead." 47 C.F.R. § 76.925(b).

The FCC must also take into account "the reasonably and properly allocable" portion of any amount assessed as a franchise fee or charge imposed by any State or local authority on transactions between cable operators and cable subscribers or any other fee or assessment of "general applicability" imposed by a governmental entity applied against cable operators or cable subscribers." 47 U.S.C. § 543(b)(2)(C)(vi).

By redistributing PEG access fees collected from O'ahu ratepayers to pay for improvements in PEG access on the neighbor islands, the DCCA would appear to be running afoul of FCC requirements for reasonable rates. O'ahu ratepayers would be paying for PEG access not only for their own O'ahu-based cable system, but also for PEG access for other cable systems. Clearly, if there was competition among cable operators on O'ahu, the extra cost of providing PEG access to the neighbor islands, would not be forced onto O'ahu ratepayers. The PEG access fees charged to O'ahu ratepayers could be deemed an unreasonable subsidy of another cable system's PEG access. Further, the "reasonably and properly allocable" language of the Act suggests that cable operators may only pass along PEG access fees to ratepayers that benefit those ratepayers. In other words, the PEG access fees charged to O'ahu ratepayers should benefit O'ahu ratepayers, and not ratepayers on other islands.

In addition, a cable operator must have a "rate structure, for the provision of cable service, that is uniform throughout the geographic area in which cable service is provided over its cable system." 47 U.S.C. § 543(d); see also 47 C.F.R. § 76.984(a). A "cable system" is defined as "a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designated to provide cable service which includes video programming and which is provided to multiple subscribers within a community. . . . 47 U.S.C. § 522(7). If the applicable

"geographic area" is the entire State of Hawai'i, diversion of O'ahu ratepayers' PEG access charges to support neighbor island systems may run afoul of FCC requirements for geographic uniformity.

If, as is more probable, the applicable "geographic area" is each island's cable system (although they are all controlled by TWE Oceanic), then by definition, the rate structure must support the provision of cable service on that island. See 47 U.S.C. §§ 543(b)(2)(C)(v) (vi) (FCC must take into account "reasonably and properly allocable" portion of fees imposed by State authorities and amounts required to satisfy PEG access services under a franchise); 47 U.S.C. 543(d) (the rate structure supports provision of cable service over a particular geographic area served by a cable system). Since each island is governed by a separate set of DCCA Decisions and Orders, it is probable that each island is considered a separate "cable system" or franchise. See Decision & Order Nos. 241, 174 (Maui), 291 (Kaua'i), 173, 185, 242 (Hawai'i), and 243, 261 (O'ahu). Under the FCC rate regulations, PEG access fees charged by the O'ahu cable system must support PEG access services provided to O'ahu ratepayers. PEG access fees cannot be used to subsidize PEG access services supporting other cable systems.

Issue #5. PEG Channel Resource.

PEG channel space was not originally intended to be based on demonstrated need (it was to be 10% of all cable channels). We disagree with having to demonstrate need in order to acquire more channels. We are, nevertheless, preparing a request for additional channel space that includes the justifications listed in the DCCA Plan.

Issue #6. Sustainability.

State policy has been to provide resources to support the public interest of providing PEG access to cable systems. The question should be how the State assures that the needed resources are provided. The sources it controls are public taxation and the collection and designation of franchise fees from cable operators. If the governance structure/board appointment process doesn't change, then perhaps the State loses nothing by involving itself in operational matters, such as access organizations' decisions to seek other sources of revenue. However, if PEG access providers are nonprofit, voluntary organizations, the State's involvement beyond encouraging PEG

operators to seek other sources of income could subject it to criticism for interfering with the NPO's independent status or evidence of control, leading to content control issues.

Issue #7. Greater Community Participation

Inclusiveness and access to participation in the democratic process are the foundation of the whole PEG strategy. 'Olelo now has 4 satellites, including Wai'anae High School, Kahuku Intermediate/High School, Leeward Community College and Jarrett Middle School in Palolo. We foresee opening others to serve other underserved communities on O'ahu (see Issue #4).

Issue # 8 Cooperation and Collaboration Among PEG Organizations.

'Olelo donates used equipment to neighbor islands who use/want it and we provide technical assistance on an ongoing basis. Each PEG center chooses equipment and creates procedures based on its own individual needs. 'Olelo is willing to collaborate and increase cooperation with PEG centers where it is desirable and appropriate.

Issue #10. PEG By-laws.

DCCA can encourage good corporate practice, but should be wary of treating PEGs differently in this regard from other corporations and unduly interfering or engaging in management. In addition to adding fuel to the "content control" issue, it is really the organization's business how it manages its operations, including board meetings. DCCA's tools are the language of the management agreement and its monitoring of performance under that agreement.

Issue #10. Chapter 92F UIPA.

To the extent that this opinion was based on the appointment process established by franchise agreements, it may be time for the DCCA and cable operators to review this provision of the agreement. While it may be that special legislation might exempt PEG access organizations from the more burdensome provisions of the UIPA, the more troublesome issue for the State might be its exposure to allegations of control (and therefore content control) that are supported by the OIP's opinion. If the State addresses the control issue, then the UIPA problems will go away. There could still be other reasonable requirements in the management agreement to address the public

involvement issues, consistency of operations among operators, etc.

Issue #11. Daily operational procedures - responsibility of each PEG.

'Olelo has a very specific procedures manual that is issued to every producer who uses 'Olelo's services. Many of our policies and procedures are also included on our website. Staff is required to consistently implement all policies and procedures.

Issue #12. Development of technical standards.

One of the limiting factors in achieving technical consistency is the cost of equipment, upgrades and training. This should be the driving factor in any decision for statewide consistency in technical standards.

Issue #13. Review of connectivity currently provided by TWE. Agree. This section is relevant to CSPAN.

The issue here appears to be to whom the cable operator wants to delegate (if at all) the responsibility for scheduling and cablecasting programming from different PEG sources. The sources of programming typically want direct control over scheduling. The responsibility for showing the programming really rests with the cable operator. Typically the cable operator wants to control scheduling of the programming that it elects to show moreso than the programming it is forced by law to show.

Issue #14. Programming (CSPAN).

'Olelo currently cablecasts government programming, additionally including bandwidth so that citizens statewide have access via the internet to live O'ahu government proceedings (Hawai'i State Legislature and Honolulu City Council) as well as taped programming (neighborhoodboards, etc). There could be a tremendous cost associated with this proposal, including connectivity, channel space, an adequate amount of production equipment and producers on each island.

Issue #15. Resolution of complaints concerning PEGS.

DCCA can encourage good corporate practice but should be wary of unduly interfering or engaging in management, particularly because of inadvertent content control issues (perceived or

otherwise) that may arise. DCCA should use its tools of its management agreements and its monitoring of performance under these agreements to evaluate issues.

Issue #16. Role of PEGS: Production versus Facilitation

The legislative history of the federal Cable Communications Policy Act of 1984 indicates that there are two beneficiaries of PEG access: the individual speaker, who is given a forum for his or her ideas, and the community, who receives access to a diversity of viewpoints. There are two types of access available to a speaker: access to technology, which allows the speaker to create his or her own video vision and air it, and access to the medium, which permits someone with no training to have his or her views aired, without the need to know how to operate any equipment."

"Facilitated production" is assisting community members who have no training to have their views aired. 'Olelo offers several such facilitated production services on a regular basis, including "**O**'ahu Speaks", "Capitol Commentary", "Counterpoint". Other facilitated productions are provided based on criteria that deals with broad community interest. Any attempt by DCCA to limit facilitated production could arguably be interpreted as governmental content control.

Facilitated productions are also addressed in "Issue #7: Greater Community Participation" of the DCCA Draft Plan. The DCCA Plan specifically acknowledges Facilitated Production as an option provided by DCCA to PEGS as a way to extend their services to all communities.

Comments on DCCA Draft PEG Access Plan

Submitted by

**Lurline Wailana McGregor, President/CEO 'Olelo Community
Television**

Aloha Mark, Clyde and Garret,

My name is Lurline Wailana McGregor. I am the President/CEO of **'Olelo** Community Television. Thank you for providing this opportunity to allow the public to comment on PEG access. I hope you hear testimony this afternoon that will provide meaningful guidance on the important decisions you will be making in the coming months.

I am submitting most of my comments in writing and would like to spend my **3** minutes discussing just **a** couple of points, including the overall purpose of why we are here, which is, I believe, to determine whether we, as PEG access centers in Hawai'i are accomplishing our missions, serving **a** community purpose and how we can fine tune what we are doing.

In reading through the history of PEG access, both nationally and in Hawai'i, it is clear that as a national movement, PEG access was simply intended to provide a cable television forum for free speech that would be free from government interference. In the Cable Communications Policy Act of 1984 that codified PEG access television, a regulatory structure was established to formalize the relationship between the cable industry and local governments. There are no instructions in this Act or in

federal regulations, specifically or generally, on how public access centers should be managed.

In Hawai'i, however, there is an abundance of direction and guidance that has been provided by both the DCCA and the Hawai'i State Legislature as they relate to expectations of PEG access centers.

In 1989, the DCCA prepared a seven volume study to create a long-term plan for cable communications in Hawai'i. The report states in its findings the objective of access: "Whatever structure, organization, or process is selected to promote access, the quality level of programming content and technical production must ultimately be sufficient to generate viewership. If PEG/LO (local origination) fails to produce "viewable" programming, it will not garner the necessary level of consumer demand from cable subscribers to ensure the long-term success of access. Viewership ultimately does become a prime justification of the use of substantial channel capacity." (Vol 1, p. 1-7).

In 1995, the Legislative Reference Bureau issued another study called "Public, Education and Government Cable Television Access in Hawai'i: Unscrambling the Signals." The purpose of this study was to determine whether the Hawai'i PEGS "provide the type of access and programming intended by federal and state law".

There are two findings that I would point out here:
("General Findings" #4.):

'The legislative history of the federal law indicates that there are two beneficiaries of PEG access: the individual speaker, who is given a forum for his or her ideas, and the community, who receives access to a diversity of viewpoints. There are two types of access available to a speaker: access to technology, which allows the speaker to create his or her own video vision and air it, and access to the medium, which permits someone with no training to have his or her views aired, without the need to know how to operate any equipment." (p. 64). Conclusion #9 of this report goes on to state:

"'Olelo, with its large budget, should consider acting as a producer of PEG television, rather than just a facilitator." (p. 71).

Indeed we have, and this is what we call "facilitated production", which is referred to in Issue #16 of your draft statewide plan, which could arguably be interpreted as a proposal for governmental censorship.

If you allow that these studies have legitimacy and are relevant to how PEG access centers in Hawai'i should operate, then you will be pleased to know that 'Olelo operates in total consistency with these principles and with the vision of these foremothers and forefathers. 'Olelo's Strategic Plan, adopted by the Board of Directors in 2001, additionally reinforces our commitment to these community building and PEG access purposes.

On a final note I would just like to discuss briefly the proposed redistribution of 'Olelo's franchise fees to

areas outside of O'ahu. There is no precedent anywhere in the United States for diverting franchise fees paid by cable subscribers from one area to another franchise area. I would therefore urge you to seek more than one opinion outside the State of Hawai'i for why this has not been done and what the ramifications could be for setting such a precedent. Notwithstanding this, **'Olelo** does provide substantial statewide access resources and services through our financial contribution to educational institutions through the Hawai'i Educational Network Consortium (HENC) and through our provision of equipment as well as technical support to the Hawai'i State Legislature for its taping and statewide distribution of legislative proceedings.

Over the past five years, **'Olelo's** franchise fees have eroded. This started in 1998 with our commitment of 25% of our annual franchise fees to the education community, which we pay out every January. In 1999, the DCCA director made revisions to the Directive and Order that governs us and capped **'Olelo's** annual franchise fee at **\$3.7** million. Finally, federal court actions over the past three years have eliminated cable modem fees from our franchise revenues, which now does not even bring our income to the level of the cap. Cable subscriptions on O'ahu are not likely to grow, and in fact, will probably shrink as satellite takes a greater share of the market. Without revenue growth potential, a further erosion or redirection of **'Olelo's** annual franchise fees will seriously impair our ability to continue to serve our own community, including the communities on O'ahu that we have not yet adequately served.

Having said that, we at **'Olelo** are strongly supportive of helping underserved communities, including those statewide. Our satellite centers in Wai'anae, Kahuku, Leeward Community College and now Palolo underscore our commitment to this purpose. We look forward to working with you and our neighbor island colleagues to develop methods to share our expertise and to expand resources for us all **so** that we can help provide a voice to underserved communities on the neighbor islands while not taking away from the underserved communities on O'ahu.

Mahalo.



Patti K Kodama
09/05/2003 04:00 PM

2003-108

To: cabletv@dcca.hawaii.gov
cc:

Subject: Written Comment Part II

"Lurline McGregor"

09/05/2003 02:07PM

To: <ClydeSunbe@dcahawaii.gov>
<Mark.E.Recktenwald@dcca.hawaii.gov>
cc: <Glen.WY.Chock@dcca.hawaii.gov>
Subject: Written Comment Part II

Attached *is* a transcript of the O'ahu hearing that should be included as part of 'Olelo's written comment on the DCCA Draft Statewide Plan.

Thank you.



- DCCA Hearing transcript.doc

DCCA Public Comment Meeting
August 25, 2003
4:30 p.m. – 8:15p.m.

MARK RECTENWALD:

Good afternoon, everyone. If I could have your attention, I want to first of all thank everyone for coming here today. We're here today to obtain the community's input on the statewide plan for cable television access. My name is Mark Recktenwald; I'm the Director of the Department of Commerce and Consumer Affairs. **This** is Clyde Sonobe, the Department's Cable Television Administrator, and **Garrett** Kashimoto, who's the Administrative Assistant in the Department. Before we begin, I'd like to thank the Department of Education for making this room available to us today to conduct this meeting. **Also**, Dennis Ragsdale and his crew are taping this production here today, and Olelo is cablecasting it live here on Oahu. **So** we'd like to thank them for their assistance as well. Our goal here today is to find out what Hawaii's vision is for the future of cable television access. There are many issues to consider in defining that future. The State **has** historically taken the lead in regulating the cable television industry and in interacting with Olelo and the other access entities. **So** one fundamental question is whether the Counties should play a larger role, and if **so**, what that larger role should entail. There are a number of other critical issues ranging from the funding of access organizations to the governance of those organizations. And in order to facilitate the discussion about these matters, we're prepared a paper which identified what we felt were some of the major issues and some of the possible options to consider in moving forward. Copies of that document are available outside the door. But I want to stress one thing; which is that document is by no means final, and the issues laid out there are by no means the only ones that are important. It is simply intended to serve as a starting point for the discussion rather than an end. And if there are other issues that you believe are significant, please bring them up **so** we can consider them as we try to develop the best possible plan we can for the future of cable access here in Hawaii. We're holding a series of these meetings across the State in order to provide the public with an opportunity comment in person, but these public meetings are not the only way for the community to make its voice heard. We welcome comments both in writing or in e-mail, sent to the Department. And the addresses are in the informational materials out front

and also on our website. We ask that you make those comments available to us by September 5th. And once you have, then we'll be able to take those written comments into account as well. And in fact, those of you who speak today, I'd encourage you to submit comments in writing or e-mail as well, so we can be sure we have a complete record of all of your concerns. After September 5th, we'll review the comments and prepare a plan for the future of PEG access here in Hawaii. I want to emphasize that that plan will not be the end of that process, but rather, the start of what I would view as an ongoing process and a process in which the community and the stakeholders who care so much about PEG access will continue to be involved as we move into the future. I'd like today's hearing to be as informal as we can so people are comfortable. There are a few ground rules, given the large number of people we have here today to help it run as smoothly as possible. If you would like to speak today, we ask that you sign up at the desk outside the door so we have a list of who would like to speak. And we'll take the speakers in the order in which they signed in. Based on the large number of people here today, what I would like to do is ask speakers to limit their comments for the first round to three minutes each so that everyone will have a chance to speak at some time within the next hour or two. If there are people who wish to add to their comments after we've gone through all those who've signed up, you're welcome to come back then and we can hear from you further. Also, again, I would urge anyone who wishes to submit additional comments to do that by e-mail or in writing. I want to thank all of you who've taken the time to come here today to share your views. I look forward to hearing from you and hearing your vision for the future of cable access here in Hawaii. So thank you very much. With that, we'll begin with the comments from our attendees today, and the first person to sign in.

SABINO MONZULI:

Good afternoon, gentlemen. Thank you very much for giving me the opportunity to be here today. I speak on behalf of my nonprofit foundation, Life Healing Foundation. It's a local nonprofit foundation and we provide complimentary services for cancer patients. Olelo has been very supportive during our

beginning phase. I don't know if you are familiar with the Giving Aloha Show. It's a show that airs every week. We were able to bring about the knowledge of the services that we are providing to **our** community through this Giving Aloha Show. It was very successfbl. We have helped, through this show, five women recovering **from** breast cancer. **So** in my opinion, it is very successful, just allowing **a** nonprofit organization to be part of this show. I'm not **so** very familiar about all the challenges and the things that this paper is showing, **so** I cannot speak very intelligently about all the things that you need to overcome to make sure that we continue having Olelo channels here and community television all through the islands. **So** that's the only thing that I can say, that for my side it was very beneficial. We're actually planning on reusing it again, it was so successfbl. And since we don't have any funding to **go** to the big channels here, Olelo has been the only avenue that we had to promote our services. Thank you.

RON NEFF:

Good afternoon, gentlemen. I'm here because I'm the coordinator within the local Toastmasters organization. We've developed—we're starting to develop, I should say, the process where we're getting people trained through the waiver programs, where we're actually getting toastmasters trained so we can produce Toastmaster television shows to tell our message better to the community. You may be aware the Governor is pretty happy with Toastmasters. She's credited it to a bit of her speaking skills. And we want to get that word out to the public more, and Olelo is providing us with a lot of assistance and the wherewithal to do that. And I notice a lot of other programming on there that would have no way of being aired publicly. **So** I'm not here really to, **again**, address any of those issues, other than without any qualifications other than it just seems to make sense, I would be for more County control. But I haven't really studied the issue, and **so** it's just a gut feeling on that. But just to encourage you to be supportive as you obviously are, and to do whatever you can to support Olelo and the neighbor island programs. And maybe even facilitate the sharing of programming back and forth. Because we'd like

to get our message out to all the islands, I know. Not just this one. Thankyou.

NINA NGUYEN:

Good afternoon; aloha. Yeah; my name is Nina Nguyen, a producer of the VNTV. And I speak in supporting and maintaining of the current working framework for Olelo Community Television. **As** an interpreter and also a former refugee from Vietnam, I'm aware of my people needs and I feel like I responsible for its solution. For over five years, Olelo has allowed me the opportunity through its tremendous network and volunteer services to communicate what my people from Hawaii to mainland, and recently to my homeland. Any change in quality and level of services provided will hurt the development of Vietnamese community in Hawaii. VNTV is currently the only Vietnamese program on the website. There are three goals of my program. The first goal is to preserve and cultivate customs, philosophy, and practices of the Vietnamese people. Our program stresses that parents be good role models for the children to follow so that the young ones do not **get** into trouble with the law. **I also work as** interpreter at the court, **so** I witness a lot of problems. And the second goal is to teach the Vietnamese the need and method of assimilation into American society through education from my program. The last **goal** is probably the strongest for me, since we were forced to leave our country in **1975**. It is to communicate the torture and injustices that Communists have inflicted upon my people. From the six thousand men, women, and children or more brutally killed or buried alive in the [UNINTELLIGIBLE] in **1968**, to the over one hundred thousand Vietnamese dying at [UNINTELLIGIBLE] to escape Vietnam, run away from tyranny and hated the Communists. They are called boat people. And the POW were killed in detention camps is more than over three hundred thousand Vietnamese **POWs**. Religious groups continue to receive punishment from the Communists. Every Vietnamese here in Hawaii have their own stones and other stories of very horrible about Communists. Through VNTV's seventy-eight episodes, copies of my program in English and Vietnamese translations are sent to other Vietnamese communities in the mainland. And especially sometimes, I send my copies to Vietnam. I

have interviewed important Vietnamese leaders who play a very significant role for my people. The future of Vietnamese people are like documentaries for the future generations to view and learn. Currently, I have videotaped the Vietnam War veterans to pay respect for their efforts in fighting for other countries' freedom. The **staff** and volunteers of Olelo have been very supportive to my program **as** well as others. Olelo Community Television is an inclusive media that allows the coverage of other true voices of **our** communities from political points of view, government activities, health education, community awareness, etcetera. Any changes would result in a lower quality. **I'm** very happy with the constant improvements here at Olelo and wish to thank the people involved with Olelo for the excellent contribution to a worthy cause. In ending, I strongly support the current framework of Olelo Community TV at the State level. Thank you very much.

ANTOINETTE STILLWELL:

Aloha. Thank you for letting me come and share my views. I've used Olelo through many of the nonprofits I've worked for. One is Lanakila Rehab Center for people with disabilities and their Meals on Wheels Program. And that was through Giving Aloha. And presently, we're using it at the Battleship Missouri. This week, there's a hundred and ten World War **II** veterans coming. And they're history is gonna be told and recorded through Olelo TV. And we couldn't do it without them. We're a nonprofit, we don't have any money to do that. **So** they're gonna help us with that, and in the future they're gonna help us with other oral histories. **And** we couldn't do any of that without Olelo TV. **So** I'm here to support Olelo TV. Thankyou.

ROBERT REES:

Good afternoon; my name is Bob Rees. This is to offer testimony to the Department of Commerce and Consumer Affairs on questions raised regarding its role **as** the LFA or the designated local franchising authority for PEG. I've been involved with Olelo in two facilitated productions; the weekly public affairs program Counterpoint and also the series of forty-four live one-hour political debates among candidates we did last September, October. So I'm by no means an expert or even well-grounded in the issues confronting the DCCA. And

this is to address only a few major points just based on my personal experience. First, your issue number one, an expanded role for Counties. The DCCA, I believe, has done a good job without interfering in the freedoms of PEG in regulatory, negotiation and advocacy activities. In a state the size of Hawaii, there's nothing wrong and a lot that's good with statewide regulation. One variation might be for the DCCA to relinquish board appointment authority to four nonprofit boards. Sufficient oversight of funds could be retained through the annual reporting and contract renewal process. In addition, the DCCA, I believe, should be represented on each board in an ex officio role. Among other things, this might change the recent opinion of the Office of Information Practices that it's the DCCA's board appointment authority which makes the Uniform Information Practices Act applicable to the private and nonprofit PEG access organizations. Related to the above, I'd like to discuss your issue number four, financial resources. Before reallocating resources and revenues, you ought to evaluate from a zero based view what each county is doing now and what the real needs are. There's always a tendency to say, Gee, we could really be good if we had more. After all, each county now receives funding as a percent of gross revenues for the specific counties where fees are collected. So there is already some proportionality. What may be missing, perhaps in the case of Kauai, is a critical mass necessary to overcome inertia. Incidentally, if Mr. Michael McCartney were not here, I would query the \$1.5 million that goes to Hawaii Public Television Foundation. That's as much as goes to the public access organizations of Kauai, Hawaii, and Maui combined. Next, I'd like to discuss what are two related issues; number fourteen on CSPA and number sixteen on, quote, production versus facilitation. Most civic affairs coverage can in fact come from facilitated production. There's no need for an additional separate or independent nonprofit entity to produce and distribute more public affairs programming. It can be done quite nicely using the G-access now available. Olelo's Vote 2002 Program including forty-four live one-hour debates, I think, was a terrific and classic example of CSPAN type coverage that can be done. This series of debates, by the way,

while it was criticized here by some that we'll discuss in a minute, was applauded by a national publication for its creativity with regard to public access. **As** regards the question of production versus facilitation, it's a false dichotomy. Both can and should coexist. We've done close to a hundred and fifty Counterpoint shows. It's viewed, by the way, as one of the very best public affairs shows in town. Each show requires about two days in research and preparation and another two to four hours in lining up guests and confirmations. And without that being a facilitated production, that is, without help it would be simply impossible to do. And having facilitated help gives us a certain quality of production that attracts the top guests and the top politicians and **so** forth in Hawaii. Over the next eight weeks on Counterpoint, you'll see four members of the Democratic Party, six Republican, Professor Jonathan Osorio on his new book Dismembering Lahui, **a** debate on affirmative action, five members of the Honolulu City Council, followed by four members, and UH president Evan Dobbelle. **And** that's consistent quality that we're getting. Lastly, I want to make some observations that ought **to** be of concern to you. And some of these related to your issue number eight, cooperation and collaboration among PEG organizations and the **lack** thereof. Of late, there's been a concerted lobbying **effort** by a few to somehow discredit the Olelo operation on Oahu **so as** to make more resources available to other operations and **so as** to be able to interfere in the governance of Olelo. **I am** referring, for example, to the undisclosed recording of phone conversations with Olelo volunteers and the replaying of those conversations on the Internet. And I'm referring to the unscrupulous use of the Uniform Information Practices Act to harass employees **of** Olelo. One employee estimates that nearly one-third of her time is now spent trying to respond. My personal advice, which there's no reason they should pay any attention to, to Olelo has been to turn over all requests for information to an attorney for screening on legitimacy and to raise with this office, the **DCCA**, and with the Attorney General's Office the question of illegal harassment of a nonprofit operation. The theory of public access is that people ought to have access to the public, and the public ought to have access to the community. **And** there's a certain freedom that

goes into that. And Chapter 92F of the UIPA ought to be at least amended ~~so~~ as to protect the freedom of speech PEG is meant to encourage. Overall, I'm making a plea that the cable television division of DCCA not make any determinations based on highly vocal complaints of a few who have a hidden agenda, more money and control of governance. Thank you very much.

JIM BECK:

I'm Jim Beck, and good afternoon. I've submitted written testimony, ~~so I'll~~ just summarize it. I ~~am~~ a board member of PBS Hawaii and was chairman ~~of~~ the board during the period when Public Television ~~was~~ being transferred from the State Department under DCCA ~~to~~ private nonprofit status, a transition that was made with the able assistance and cooperation of this department and particularly Clyde Sonobe. PBS continues to receive one percent of the franchise fee, and I'm here mainly to tell you thank you. It was invaluable during the transition period; it is now vital to our operations. It makes up thirty-four percent of the PBS budget. The second only to the magnificent contributions of our viewers who do, I understand, contribute more per capita to public television than any other state in the nation. It is irreplaceable in the current economic climate and again, I would just suggest that the current distribution arrangements of the franchise fee have been fruitful and useful. And I would urge that they be continued. They may not be perfect, but they seem to be doing the job to the benefit of the viewing public which pays the fee. Thank you.

DANIEL FOREMAN:

Aloha; my name is Daniel Foreman, and I am a teacher. I'm a teacher at Waianae High School. I'm here to voice my concern about possible legislation that may try to silence the voice of the Waianae community. Olelo TV has made access to media a reality at Waianae High School. They have attracted and trained many students in the media artform. These students often become our best leaders. They are empowered because they can now speak about their community, rather than listen to outside media slanted, often negative vision of Waianae. Students volunteered to submit testimony, and these are some excerpts from their writing. Olelo has helped me to become a

good developer in video productions, and I'm only a senior in high school. It gives Native Hawaiians, other community members, and other local organizations a chance to share what they're about. It allows the community to be seen around the state. People think Waianae is a ghetto and while it doesn't mean people shouldn't be heard, taking away our chance to show people how we feel is just like telling us that we aren't important enough to be heard. When you voice your opinion, it changes people's outlook on how they see you. And last but not least, Let our voice be heard. Mahalo.

MIKE McCARTNEY:

Aloha, Director Recktenwald and staff of DCCA. My name is Mike McCartney from **PBS** Hawaii. And you have our written comments, and I just wanted to share a few thoughts with you about our position. First of all, we are not an access provider, but we are very grateful for the money that we receive from the State, the one percent which approximately comes up to thirty-four percent of our budget. It means a lot to **us** because from **1967** to July 2000 we were part of the State government. At one point, we received a significant amount of money from General Funds. We had a staff of over sixty people; today we have a staff of twenty-eight. And the money that is provided to us by this franchise fee helps **us** to carry out our mission. We are different in one sense that we are a licensed broadcaster. We provide statewide access. We provide broadcast around the State. **So** people who do not want cable or cannot receive cable get our services and signals. **So** we have programs from seven of the top ten children's programming across the country to doing shows like KidScience that's part of the Department of Education that's broadcast all over the country and shared with many people around the country. **So I** think our message is that we service a lot of the State and we do not compete with access providers. I think we compliment and we stand ready to work with you and we stand ready to work with our other partners who receive franchise fees to provide services to the people of Hawaii. And I do agree that we need to have a comprehensive dialog about what the needs are, do some assessment, and have everybody come to the table to see **how** we can all work together to do that. And **PBS** Hawaii stands ready to work with our partners in the access community to

provide those services. So thank you very much. And I have some other testimonies that I'll leave with you from Al Hoffman, Rick Tsujimura, and myself, I'll just leave this with you. Thank you very much; appreciate it.

LURLINE MCGREGOR:

Aloha, Mark, Clyde, and Garrett. My name is Lurline Wailana McGregor. I'm the president and CEO of Olelo Community Television, and I would like to first thank you for providing this opportunity to allow the public to comment on PEG access. And I hope you do hear testimony this afternoon that will provide meaningful guidance for the important decisions that you will be making in the coming months. I'm submitting most of my comments in writing and would like to spend my three minutes discussing just a couple of things. In reading through the history of PEG access, both nationally and in Hawaii, it is clear that as a national movement, PEG access was simply intended to provide a cable television forum for free speech that would be free from government interference. In the Cable Communications Policy Act of 1984 that codified PEG access, a regulatory structure was established to formalize the relationship between the cable industry and local governments. There were no instructions in this act or in the Federal regulations that ensued, either specifically or generally on how public access centers should be managed. In Hawaii, however, there is an abundance of direction and guidance that has been provided by both the DCCA and the Hawaii State Legislature as they relate to both expectations or to expectations of PEG access centers. In 1989, the DCCA prepared a seven-volume study to create a long-term plan for cable communications in Hawaii. This report states in its findings the objective of access which is, quote, Whatever structure, organization, or process is selected to promote access, the quality level of programming, content, and technical production must ultimately be sufficient to generate viewership. If PEG local origination fails to produce viewable programming, it will not garner the necessary level of consumer demand from cable subscribers to ensure the long-term success of access. Viewership ultimately does become a prime justification of the use of substantial channel capacity. Unquote. In 1995, the Legislative Reference Bureau issued

another study called Public Education and Government Cable Television Access in Hawaii, Unscrambling the Signals. The purpose of this study was to determine whether Hawaii's PEGS, quote, provide the type of access and programming intended by Federal and State law. And there are two findings I would point out here. General findings number four states, quote, The legislative history of the Federal law indicates that there are two beneficiaries of PEG access; the individual speaker who is given a forum for his or her ideas and the community who receives access to a diversity of viewpoints. There are two types of access available to a speaker; access to technology which allows the speaker to create his or her own video version and air it, and access to the medium which permits someone with no training to have his or her views aired without the need to know how to operate any equipment. Conclusion number nine of this report goes on to state, Olelo with its large budget should consider acting as a producer of PEG television rather than just a facilitator. So indeed, we have. And this is what we call facilitative production, which is referred to in issue number sixteen of your draft statewide plan, which could arguably be interpreted as a proposal for governmental censorship. If you allow that these studies have legitimacy and are relevant to how PEG centers in Hawaii should operate, then you will be pleased to know that Olelo operates in total consistency with the principles and the vision of these foremothers and forefathers. Olelo's strategic plan adopted by the board of directors in 2001 additionally reinforces our commitment to these community building and PEG access services. On a final note, I would just like to discuss briefly the proposed redistribution of Olelo's franchise fees to areas outside Oahu. There is no precedent anywhere in the United States for diverting franchise fees paid by cable subscribers from one area to another franchise area. I would therefore urge you to seek more than one opinion outside the State of Hawaii for why this has not been done and what the ramifications could be for setting such a precedent in Hawaii. Notwithstanding this, Olelo does provide substantial statewide access, resources, and services through our financial contribution to educational institutions through the Hawaii Educational Network Consortium and through our provision of

equipment as well as technical support to the Hawaii State Legislature for its taping and statewide distribution of legislative proceedings. Over the past five years, Olelo's franchise fees have eroded. This started in **1998** with our commitment of twenty-five percent of our annual franchise fee to the educational community) which we pay out every January. In **1999**, the DCCA director made revisions to the DNO that governs us and capped Olelo's annual franchise fee at **\$3.7**million. Finally, Federal court actions over the past three years have eliminated cable modem fees from our franchise revenues, which now does not even bring out income to the level of the cap. Cable subscriptions on Oahu are not likely to grow, and in fact, will probably shrink as satellite takes a greater share of the market. Without revenue growth potential, a further erosion or redirection of Olelo's annual franchise fees will seriously impair our ability to continue to serve our **own** community, including the communities on Oahu that we have not yet adequately served. **So** having said that, we at Olelo are strongly supportive of helping under-served communities) including those statewide. Our satellite centers in Waianae, Kahuku, Leeward Community College, and now Palolo underscore our commitment to this purpose. We look forward to working with you and our neighbor island colleagues to develop methods to share our expertise and to expand resources for us all, **so** that we can all help to provide a voice to the under-served communities on the neighbor islands while not taking away from the under-served communities on Oahu. Mahalo.

TAMMY TOMA:

Aloha; I'm Tammy Toma. I'm the satellite manager for Olelo at Kahuku. Thanks for having us today. I want to address issue seven, greater community participation and issue sixteen, role of PEGs. To serve a community, you have to know that community. And at the satellite centers, that's what we do; we get to know the communities. In number sixteen, it talks about the role of PEGs in facilitating production. We have a range of comfort levels in our community. People who want to take our classes, we have a monthly schedule of classes. **And** some of the people don't want to take the classes because they don't have time to. **And** I'd like to read a statement from the

Multiple Sclerosis Society who serves seven hundred people with MS in Hawaii. Lynn Moku is the director and there's only two people in their office. So of course, they don't have time to take our classes. But they did use some of our facilitated productions. Her statement was that there are seven hundred people with MS in Hawaii; and although we have had some publicity about MS and our programs over the years, many people still do not know what multiple sclerosis is, or they confuse the MS Society with other organizations. Community In Touch allowed us to talk about a variety of topics, and we are truly grateful to have been able to participate in this program and hope viewers will be able to understand MS and our role in the community. I point this out because, as I mentioned, there are people who wouldn't be able to take the classes. And so this really helped this organization. And there are many organizations who feel the same way. I'd also like to point out that our community relationships are very important to us, and your document mentioned community relationships. We have strong partnerships with the North Shore Neighborhood Board, the Neighborhood Board in Hauula. We're working with the Empower North Shore Oahu and Koolauloa Education Alliance Corporation to use, with our phrase, build community through media. There's the Waialua High School on the North Shore and Kahuku on the Windward side. We're building a bridge between the two schools to work on productions together, so these students will grow up together from different communities and learn about each other. If I may take one more moment to read a statement from Lisa DeLong, the principal at Kahuku High School. She states I'm writing this letter to ask that when you make decisions about the future of Olelo, that you do not redistribute resources to fund outer island programs. Loss of funding to our program would have a significant impact on our current services and we would not be able to provide the same level of opportunities to our community. When we needed to get a message out about budget cuts that threatened our local hospital, the only facility of its kind for miles, Olelo helped a group of organizers develop a video that underscored the importance of access to a hospital in a rural area. So we are grateful that Olelo was able to do that. We're confident that you'll make the right choices

for the Island of Oahu and for Olelo. And we're grateful that you're gathering this information **from** Olelo, the clients, and the communities of Oahu. And thank you for this opportunity.

WENDY ARBEIT:

Director Recktenwald, and the two of you. I forget everybody's titles at this point. My name is Wendy Arbeit. I have been involved with public access for nearly a decade. I'm a strong supporter of what public access should be doing. I agree with the need for a statewide PEG access plan. I do not agree that this one will meet your stated goal of guiding the development and enhancement of their services. My point-by-point responses to the draft plan are attached to this statement. I have seven pages which I'll hand in later. Director Recktenwald, I do hope that you personally will be reviewing all the comments the public has submitted and not passing them unread to CATV. You will; okay. Thank you; I'm reassured to hear that. It seems to me that the current draft seems intent on two main changes to Hawaii's PEGs. One is to remove oversight by the public while continuing reliance on public funds. The other is to allow **PEGs** to reverse their missions from, in Olelo's case, promoting the creation of programs by individuals of the public to selecting and creating the programs themselves. Olelo's misnomer for this is building community. The only community Olelo was established to build was its **own**; a community of media-savvy thinkers who wish to communicate its thoughts and information to the larger Hawaii community. In that, it has been an abject failure with the complicity of DCCA. Olelo has done everything possible, from my short list the nineteen items identified under issue sixteen below, to discourage and intimidate those individual clients who try to use Olelo as it was intended. One proof of the statistic of how many people were trained and then left in great frustration soon thereafter. This high annual rate of turnover has continued unchanged over the entire ten-year life of Olelo. It's obvious to anyone who's learned from history or even who has been paying attention to recent media takeovers that control of information is crucial for controlling the populace, whether we're talking about electing politicians, making people content with drone jobs, or as in Hawaii two drone jobs, or buying *SUVs*. If people knew the real stories

behind the pab fed to them by commercial news organizations, the entrenched politicians, utilities, and institutions could be in peril of being replaced. I believe this is why individuals have been frozen out of Hawaii access, to be supplanted by safe, predictable, nonprofits, enticed in with perks never offered to those poor bait-and-switch public clients. The balance of those testifying here today, and you've heard almost exclusively people from the nonprofit sector, bear this out. You don't see any individuals here because they've all been chased away, effectively. **From** the beginning, DCCA has overseen this ongoing travesty. It has not executed its legal duty of ensuring that Olelo carried out its obligations as spelled out in its contracts. DCCA has continued to select and support board members that continue this travesty. Even with plenty of cause for removal of these persons, it chose to turn a blind eye. Governor Lingle ran for election and was elected on the platform that called for **an** end of cronyism and a new beginning of an era of openness and transparency. **To** some extent, she has been stymied by the Legislature. DCCA at this time has the opportunity to put her stated goals into action. You, Director Recktenwald, can call for a legislative audit of Olelo. It will make plain to you and to the entire community the claims put forward by the Community Television Producer! Association and others over the years. With this audit, you will be able to see the degree of misuse for public funds. You will see the many ways Olelo has deliberately mismanaged its operation. Ten years is just way too long to claim ineptness and learning curve. This draft presumes good faith and pretty good management on the part of Hawaii's access centers, conditions that do not exist in reality. **As** a result, its solutions come nowhere near solving the many ingrained problems that presently exist, especially on Oahu. Please; do the only thing that makes sense if you truly want public access to succeed as a vehicle for the public's right to express itself. And I mean the individuals, and not the safe nonprofits. Order an audit, let transparency reign, not the good ole boys.

JOSE VILLA:

Thank you and good afternoon. I'm the lead advocate at the Office of Hawaiian Affairs. In the last year, my experience with Olelo has been as a small agency and as a large agency.

Prior to coming to OHA, I was the executive director at Honolulu Habitat for Humanity and participated in the Giving Aloha Program. As a small nonprofit, like many of the small nonprofits represented in this room, access to television is something that's just not affordable. We have tremendous missions, very dedicated professionals. But the one thing that the Olelo program did for us at Habitat for Humanity locally was that it gave us credibility. Walking away with that tape, when you can show that to another agency, to a prospective funder, to other people in the community when you're trying to get volunteers to come and help you to carry out your mission, having that kind of support. There's something about that visual medium that gives you instant credibility. And most nonprofits, many nonprofits can't afford that luxury. Now at OHA, a larger agency, we have put together twenty-four one-hour programs over the next year. I have already filmed eight programs. And the gentleman that spoke, the teacher at Waianae, I can attest to the quality of the students that he has out there, because they have done eight of our programs. We've contacted seventy-five public access television stations on the mainland. About half of those stations have requested the entire series to be aired on the mainland. There are something like a hundred and seventy Hawaiians or part-Hawaiians that live on the mainland, and when I contacted the TV stations, I thought they would be primarily in the states that had large Hawaiian communities. But that wasn't the case. It was across the United States, there are people that are interested, stations that are interested in finding out more about Hawaiian culture, Hawaiian music, Hawaiian art. Again, we're a small voice, but the capability that we've been provided at Olelo has just been awesome for us. Thank you for your time.

JEFF GARLAND:

Good afternoon; Garrett and Clyde, aloha. Aloha, Director Recktenwald. I am Jeff Garland, and I represent only myself if making these statements, which I believe are in the best interest of the viewing public. I have studied this matter over the past eight years and am compelled to speak out on the facts that I have obtained through my research. I speak in favor of a comprehensive statewide access plan, but against this one in its current form. I feel it important for me to first state that I feel

extremely uncomfortable that this plan is in process without the oversight of the Cable Advisory Committee which both Governors Cayetano and Lingle have failed to appoint, which is a violation of State law. Cost of studies, plans and research regarding Hawaii PEG access to date are now well in excess of a half a million dollars with little to show for their expenditure. How will this plan be different? Where is the complete process for this plan spelled out? Is this plan only to protect the State and the PEGs from possible litigation, or to protect the public's best interest? Will you continue to allow the PEGs use their up to hundred and fifty thousand dollar a year publications budget for window dressing newspaper articles to make the organizations appear to be nondiscriminatory community builders while this plan is still in process? At the opening of the August 12, 2003 DCCA PEG planning meeting on Maui, you stated that the plan is, quote, **Just** a starting point, some things we had thought were important or were worth thinking about or considering, and the options that we heard from some folks suggest that might be worthy of consideration. Which makes it appear that the seven PEG producers' concerns that were shared with you are, quote, not worthy of consideration, unquote, as none of their options appear in this plan. Do you not consider them some folks? Could you please tell us exactly who the some folks are who put this plan together? You also noted that you wanted to build people's trust in you. And I want to wish you the best of luck. Because DCCA has a long history to overcome, as you have witnessed by the epidemic lack of recall for answers to very important questions by past and current directors, employees, and administrators in your division. DCCA's disturbing history with franchise fees and agreements began with Director Alm, who established PEG and their bylaws and provided for over a million dollars a year of cable franchise fees to go to Hawaii Public Broadcasting without a proper hearing or following the intent of the State legislation. He left DCCA to take over as president of First Hawaiian Trust. Soon after, he got appointed to Olelo's board and oversaw all of Olelo's, KHET's, DCCA's, and Oceanic's finds in his trust. His next move was to begin a process to merge Olelo and KHET, which appeared to be only of benefit to KHET, not Olelo or the public. **His** final move was to

KHET's board and now he's at the Hawaiian Electric political graveyard in charge of government relations since about the time lawsuits were filed against First Hawaiian Trust for mismanagement of funds. **Mr.** Alm's group of board directors were from the education sector and the end result was education now gets twenty-five percent of Olelo's funds, on top of the other services Olelo provides for educational institutions. DCCA Director Matayoshi, whose husband worked for AOL Time Warner chief executive director Steve Case's father, and whose mother was appointed by the Governor to assist nonprofits, appointed a group of elite nonprofit administrators and board directors to Olelo's board of directors, who have now virtually changed Olelo's mission to one of more inequitable facilitation of nonprofits. DCCA has not even responded to requests for them to remove their appointed directors with cause. Your cable television division administrator's wife works for **AOL** Time Warner Telecom. And he **has** a well-documented history of non-responsiveness to complaints and concerns up until the new administration came in, but still responds as slowly and as minimally as possible. Director Matayoshi appointed ex-deputy director and ex-cable television division administrator and fellow YWCA board director Susan Doyle to Olelo's board. Doyle was informed of DCCA's intent to remove public benefits **from** PEGs and to provide for larger profits for Oceanic Time Warner in the franchise agreement. Ms. Matayoshi doesn't recall telling anyone but **Ms.** Doyle of DCCA's intent. And Ms. Doyle not only failed to tell any other Olelo directors, administrators, or active clients, but also failed to inform any of the other access centers in the State of the potential for the loss of ten percent of their funds. All this was done while the Governor was in violation of **HRS** 44G-13 by not appointing anyone to the Cable Advisory Committee. I don't think it can be considered in the public's best interest to virtually eliminate all resonance of the State from the franchise process by intentionally keeping the most important information about potential outcomes from them. If you truly want to gain the public's trust, might I suggest you reconsider excluding the concerns and options provided to you by members of the public before this current draft plan, which still include a legislative

management and financial audit of these PEG corporations who collectively to date have received more than fifty million dollars. Audit Oceanic Time Warner to verify they are actually providing all funds collected and that they are following their mandates of providing services which are supposed to be at not cost to subscribers and to the State. Change the **PEG** corporations from non-membership to membership, corporations to give the financial and program contributors a bona fide stake in their community media corporations. Mandate bylaws be changed to state the organizations will abide by State sunshine and open records laws. Repeal Director Matayoshi's delegation of **HRS 44G-15b**, which now allows DCCA to collect more fees from subscribers than the cable television division actually uses. This can be accomplished by putting back the language the State Auditor requested and **go** the Legislature to pass to avoid overcharging in the first place. Either that, or designated the unencumbered balances of the cable television division for PEG baseline services and equipment statewide. Last, but certainly not least, repair the damage that was done in Decision and Order Number **261** and right all the wrongs done in other franchise orders. Mahalo for this opportunity. And I will be submitting the specific issues in writing.

MARK RECKTENWALD:

I appreciate your doing that. I do just want to point out that the issue of the Cable Advisory Committee is one of the issues that is set forth in the plan for comment by the public. It was our intent to hear the public's comments, find out what the public thought about that, **so** we could as set forth there decide what the best future for that committee is.

JEFF GARLAND:

It's just that here we are making plans again, with all the studies and everything that we've had, and we didn't have them and then you know, the two franchises, **261** and **291**. **291** which created the monopoly, **261** which got rid of a lot—gave a lot of benefits to AOL Time Warner and took away benefits from PEGs. And we didn't have that committee just to get the information. So that's why the question about what is the process of this. We have the plan, we can comment. And then

you look at our comments. What happens to the comments after that?

MARK RECKTENWALD: Thank you, Mr. Garland. I simply wanted to make the point, the issue is up for public comment, it's in the plan and people can share their views with us. **So** that is not an issue that-

JEFF GARLAND: Well, I mean, once you **get** the comments, are you gonna put up another draft and let us comment on that final draft, or ...or is it done?

MARK RECKTENWALD: If we're able to before the Legislature reconvenes, we'll **try** to do that.

DAVID HUSTED: My name is David Husted. I'm a producer at Olelo of [UNINTELLIGIBLE]. I work with different productions at Olelo and I'd just like to voice my opinion about what little knowledge I have of what's going on. Olelo has provided me with something that I have not been able to provide for myself and no branch of the government has been able to provide, which is access to the community. And the access that I have to the community is something that if I had to provide for myself would cost—it just wouldn't be feasible with what I do. I'm just a member in the ministry. Our ministry doesn't ask for donations and collections. We're not like most ministries. **We** don't receive funds from any **sort** of government. And there are not a lot like us, but there are some out there. And the access that we have to help the people that we help is tremendous. We have access to people that we normally would not have access to. We get phone calls **from** some of the outer islands because they're able to view what it is that we're hearing on Olelo. The staff at Olelo, for everybody that I've had the pleasure of working with and getting to know, they have all been very helping in making sure that I as well as the people that I work with have everything that we need in order to do what we're doing. When we could not afford money to **go** to the classes, they provided waivers for us **so** that we didn't have to pay in order for us to get **our** programs on the air. **And** this was without any pre-knowledge of what our program was or what our agenda was. It was not judged by who we were,

what we looked like. Obviously, I'm a Haole and **so** that wasn't an issue, which is sometimes uncommon in Hawaii. **So** Olelo's function, as far as I'm concerned, and the people that I work with, is a tremendous, tremendous function. One of the first things that Olelo tells us when we begin to go to Olelo is that we are only second to one in the United States as far **as** community access television. And they say that's **New York**. And I've talked to some people and they say that may not be exactly true. **So** Olelo is a very good, important function for the community. This meeting right here is being broadcast live on Olelo. **So** there's a lot of people that are able to see what's going on here that would not be able **to** see what's going on without Olelo. I know what when responsibilities begin to be moved around, like say for example if a department in the State government has authority over funds and how the funds are distributed, and that's moved to a different department or to a different branch or a city or local government, many times what happens is the people that are now having the responsibility decide that it's not **as** important as something else. It's my understanding that the people that have the authority right now and the responsibility of that are more minded for what Olelo is all about. It's possible that these things could be handed to people that just simply don't care or don't have as much of a vision as the people that do right now. If Olelo is only second to one in the United States for community access, it seems to me like it's working and it's working very well. For the people that I've worked with and the people that I've seen, it's worked very well. **So** it doesn't make sense to begin to move things around. Actually, that's probably all I have to say, and Olelo really does work.

SIANABURGESS:

Talofa; my name is Siana Burgess, and I am a employee of Olelo. But **I'm** also here as a client. About four years ago—I'm a former high school teacher. And about four years ago through the school bulletin, I found out about public access. And I took the classes and I found that this is something I really, really love to do. The moment I walked into Olelo, I felt the spirit of the organization. It was just really awesome. The people welcomed you with open arms. They tried to help you in every way that they could. They've got excellent

teachers and trainers. And four years later, almost four years later, I **still** feel that same passion that I felt when I walked into that building. I still feel that same spirit of aloha, of service. And that's what Olelo is about. And I'm thankful for this opportunity to speak, because although I work there, I felt strongly that I'd have to say something about this organization because it means a lot to me and I'm really thankful to be a part of it. Throughout the years, as the years have been going **on**, I've seen continued growth in the programs. And you've heard a lot about them. I work out at Kahuku satellite, and just seeing the people taking the training-because I also train out there. And their eyes open wide when they realize that they have the power and the opportunity to put their message on television and share it with Oahu. It's a very powerful medium and I'm really happy with our leadership. And I think anyone that you go to-and I speak on my own behalf. But I wouldn't doubt if anyone you asked in our company how they felt about it, they feel the same way. Everyone here puts forth a hundred and ten percent in all that they do. And I support my leadership and I know that if they would come up and say it, they would too. **So** I'm here just **as** myself and I'm happy with the way Olelo is run. I think we're run by people who know what they're doing, they have experience. They've got education and the structure is a very strong structure. And whenever they make decisions, they always look within the company. They ask the satellites, What's going on out there **a** Waianae? What's going on at Kahuku? How was this? What can we do to make it better? We're trying our hardest to make public access easier for people to have access to. And I think it's working. I see a lot of blossoming coming out of the Waianae satellite, out of the Kahuku satellite. We have a new satellite just opening up this Saturday out at Palolo. Leeward Community College became a full-fledged satellite as well. Because there's an need and there's a desire of the public to come out and use these facilities. And if you look at these facilities, they're all located in educational facilities. And so not only are we there for the public, but the community children come in. They take a look, they participate. They walk away feeling empowered. **As** I have, even though I started late in life, but I feel empowered to go forth and share

what I believe about who I am with not only Oahu, but anyone who will listen. **And** I've got a lot of feedback from my own community. And because of that, a lot of people are also coming out and they're saying, Hey, I can **do** this too. Not just children, but adults my age. I'm still young. But if you also look here, part of Olelo's mission statement, a big strong part is to promote and preserve the diversity of thought and culture throughout the Island of Oahu; promoting the programming for, by and about the people of Oahu. And now people of Oahu are here. And look at the diversity we have here. All age groups, all cultures. **And** when we talk about cultures, we're not just talking about the individual. The individual is a culture, but organizations are cultures as well. And we all coexist together in partnership. **So** when we help one, we help the other, and they help each other. And Olelo only functions through volunteers. And because of all these volunteers, look a how successful we are. And we have volunteers out there right now, videotaping this show so everyone can hear about us. **And** I feel strongly about Olelo and I think we've come far, and we're gonna go further And we're still stretching out our wings and feeling them, trying **to** reach—there are still rural areas here on Oahu that we have not reached. And we're using the money that we have to **try** and maintain the ones we have. So if you start taking funds away from Oahu that were meant for Oahu, we're gonna be lacking and we're gonna be hurting. So I thank you for this opportunity and thank you for hearing me.

JUNE SHIMOKAWA:

Good afternoon, **Mr.** Recktenwald and staff of DCCA. Thank you for this opportunity **to** present testimony. I'm June Shimokawa, and a community volunteer. In my last position before retirement, I worked in an education and advocacy organization and had the good fortune of working with people in the grassroots community. A favorite choice of strategy was organizing educational forums for the general public. When the opportunity was presented to us by Sparky Rodrigues, who at that time was a new Olelo employee, to tape our sessions for presentation on Olelo, we were most enthusiastic. So enthusiastic that our volunteers from Honolulu and Windward were willing to make relatively frequent trips out to Waianae to

the Olelo studio there to do some work. Were it not for the valuable guidance and assistance of Sparky, we might have missed availing ourselves of what turned out to be a most valuable community resource, bar none. The feedback our organization kept receiving from members of the public who saw our programs raised my consciousness **as** to the effectiveness of locally produced Olelo programming. Such programming gave us tremendous mileage. It extended our listening audience not only on Oahu, but on Kauai, Maui, and Hawaii, in that we sent copies of our programs to the community television stations there. They were eager to receive relevant and timely locally produced programs on vital community issues. If your department is contemplating cutting what I heard **Ms.**McGregory facilitated programming, please; forget it. Do not tie the hands of some of the most dedicated, visionary, exemplary staff members of Olelo who know that if they do not make their resources available to the taro roots community, the most marginalized people in our community will once again be ignored and disempowered from engaging in the practice of democracy. They will lose a critical avenue to be contributing members of our community. A few years ago, I monitored several of the commercial network television stations. Since FCC no longer requires them to set aside time for local community programming other than local news, cooking programs, and a few others, there is almost no community issues-focused programs. **So** stations like Olelo become our primary point of access. **So** if you want to have a health democracy, the public must have access to the airwaves. We must be able to have a forum where relevant local issues can be presented and discussed from the perspective of the affected people themselves. Local news lets **us** know about community problems. Community television provides the stories of the positive activities of local residents, such as to strengthen our economy, protect our environment, and build important linkages and relationships to make Hawaii a better place to live. Thank you for giving me this time.

RITA KAWAHEHI KAN **JL:**

Aloha; my name is Rita Kawehi Kanui. This is input into the DCCA plan for public education in government. Due to short notice of this meeting, many of our people couldn't make it

from Waimanalo. I'm one-third of the Holi Mole Productions, a newly created entity which is evolving editors, camera, and producers from the Waimanalo community. As I said, name is Kawehi Kanui, and I'm one-third of Holi Mole—which means a vine and taproot, which denotes our focus being broad and deep—Productions, an independent not for profit video company formed to promote, assist, and work towards the education, needs, and purposes **of** the Waimanalo community to train all ages about video production and what it takes to be a camera, editor, and producer in video productions. And hopefully to instill and develop skills in those interested to see the larger possibilities that can secure themselves a job in this field. **As** other speakers have said **so** eloquently, Olelo provide that access for us. We could never afford that otherwise. **So** Olelo for us serves the community very well. Their **staff** is competent in our view. They have a lot of talent that we need in our community. Being from Waimanalo, we get the stereotypical drugs, bla-bla-bla, ghetto, bla-bla-bla. But there's more than that, that exists in Waimanalo. After reading the draft for comment, it is clear that there are some areas that need more input, clarification, and follow ups to be fair to everyone. For example, there is a need for community involvement in the decision making on all islands with regular report **of** these meetings for public review on all levels for better checks and balances. I would say that there is too much political involvement from what I just read and control in the Olelo programs, and not enough community involvement, feedback, and implementation. Olelo should stand neutral, but that's **o u r** opinion, in order to stave off too much political infiltration and leave Olelo a voice for the people, a station that was intended for Olelo. The Waimanalo ahupua'a according to our history and maps extends all the way from the top of Konahuanui at the top of the Pali down to Lanikai Beach, more like Kalama. Around Kailua, into Keolu Hills, down Waimanalo, past Kalama Valley, Hawaii Kai, and out to the Kuliouou, ending at Maunalua Bay. That is Waimanalo. There is over a hundred thousand people that live in this ahupua'a and we do not have an Olelo satellite production video production, and we would like to see one in that area. Only with Olelo can that happen. And with their expertise and help, we hope to see our students

young and old, get involved in telling their own stories. As June said, the regular TV stations say the news. I feel Olelo gives us a solution. And I haven't finished commenting on these things, and we're just a newly formed group, but I have touched bases with many groups' leaders in the Waimanalo community, and we are planning a community meeting to take a look at setting up a satellite Olelo station there. There was one there before, not with Olelo but with the Waimanalo Library. But because of funds that got diverted, it lapsed. **So** that's like twenty years **ago**. **So** with that, thank you very much.

JEFF GERE:

Aloha. I come to greet you, interrupting my house painting, because this is such an important topic. I've been a user at Olelo since 1990. I run the biggest storytelling event in the State, the Talk Story Festival. I produce thousands of hours of storytelling featuring not only my own work, but those of everybody that tells a good **story**; for years. I would never have had this kind of access had it not been for Olelo. I highly value the opportunities that they have provided for me. Not only in terms of training, but also in production. I've used their truck to shoot with three cameras to produce high quality programming which has been shown nationally on different programs across the country. These guys don't get heard. I, through Olelo, am able to bring their talents to a greater community. **An** example; I produced a public service announcement, thirty seconds. Nobody had ever done it. I work for the Parks Department. I just wanted to do it. Only way I could think of was Olelo. Then I went over here to [UNINTELLIGIBLE]TV. Dawn produced it. We took it to the stations. The stations mass produced it, and within two weeks we had mass produced, showing up, thirty seconds. Might have been **off** of Oprah, it might have been **two** in the morning, but there was more publicity for the last Lei Day, for the Na Hula Festival, for the Talk Story Festival. This is just one small, I'm a little guy in a big pool. You guys are dealing with the big thing. But as **far as** I can see, Olelo is the only way a lot of **us** little guys can get into this big pond called media. As another citizen of this world, the fact that in the Patriot Act and this conglomeration **of** mass medias, into

bigger and bigger fish swallowing more and more media, newspapers, every kind of printed material that you can get, the fact that a little guy can speak up and even address you gentlemen is an expression of the highest ideals of democracy. And I would like to urge you to continue that access for the little guys like me. Thank you.

ED KREMPSER:

Good afternoon and thank you. I'm Ed Krempsen; I run a group called Fellows, which is putting seniors in the classroom working with elementary schoolteachers as tutors and mentors to elementary children. When we started, we had one school and two volunteers and a great idea, and no way to let anybody know about it. And we were fortunate that Olelo contacted us as a volunteer organization and gave us the staff, the facilities, and a production team, and we were given a half hour to tell our story. Since then, we've been back again on the show. But as a result of that, we received a lot of inquiries, a lot of activity. And now the mainstream media has figured out we're doing a good job out there. But without Olelo in the beginning, no one would have ever heard of us. We need that kind of support, because there's constantly new organizations coming up like ours did, and they need the help to get the message out to the community. Thank you.

HEIDI WONG:

Aloha; my name is Heidi Wong, and I'm a gerontological social worker. I'm here as an advocate for Hawaii's older adults, not only as a gerontological social worker, but also as a trainee in one of Olelo's facilitated production courses that enables the voices of Hawaii's older adults to be heard. My testimony is relevant to issue number sixteen. Olelo provides many facilitated production opportunities that serve to improve the well being of Hawaii's older adults and enable the voices of our kupuna, often marginalized and silenced, to be heard. One of these courses is Halia Aloha, a wonderful oral history video production class offered free of charge to any community member interested in preserving the legacy of the lives of our diverse older adults. **This** class has enabled community members to videotape the stories of older adults' lives to be heard, preserved, and aired on Olelo for Hawaii's community. The process of producing these videotaped oral histories serve

to enrich the well being of older adults, and the products, short oral history videotapes, are a valuable resource to our local community to depict the diversity and the strengths of our elders. Olelo is a vital institution in our community that provides many opportunities that serve the well being of our elders. This program is one of many facilitated production opportunities that should not only be preserved, but **also** be given the opportunity to grow and thrive. Mahalo.

RICHARD TURNER:

Aloha, Director Recktenwald and Cable Television staff. Thanks for the opportunity. I come to you with about twenty-five years of experience in operations management in public policy and specifically in this area of public interest telecommunications and public access. And I come to you also as a consultant, a producer, but as **an** individual. And of course, you may have experienced this history that's coming before you, just to give a little bit of perspective in my involvement, is that the access movement was born of social change and the desire to create social change and to improve communities. And that the community building that perhaps was referred to as defined as facilitation of production, I would rather try to correct and say what you're experiencing in this room is community building. The fact that that's the outcome of what public education and governmental access effort should be about is getting people to re-engage in the civic life, to re-engage with one another. **So** that when they come to a center **as** you've heard expressed **so** well, that people who probably would not have otherwise had an opportunity to either meet one another or certainly work towards some greater social outcome come together and bond and make our community a better place to live. To that end, I'm gonna try and give you some quick sound bytes in the three minutes that you've provided me on your plan. And **so** I'll sort of go through that. And I would start with **sort** of the preface of saying that you should try to seek to creak synchronicity with the processes **and** the social societal outcomes. And by that, I mean if we are trying to in fact create diversity of speech, then we should be creating processes that increase the potential for diversity, debate, dialog among them. I don't envy you in this process, because certainly you're going to hear so many versions of the