



Carol Bain [REDACTED] on 0712112003 07:44:23PM

To: cabletv@dcca.hawaii.gov  
cc:

Subject: Sustainability for PEG access facilities- input for draft plan

On the topic of sustainability for PEG access:

Posted: Mon Jul 21, 2003 7:40 pm Post subject: mo money

-----  
--

When you review other PEG access facilities around the nation, those that get too much \$ have a harder time fulfilling their mission of training & facilitating the public to make their own messages. This is because the money attracts the worst elements in the community --the greedies.

All the PEG'S in Hawaii have enough \$. I just wish they would stop trying to "grow" and start just doing their original mission: Turn speakers into video message makers and facilitating free speech. It really does not take a lot of \$ to do this, but a basic facility and the clear vision toward the goal of promoting (not pre-producing) free speech.

Seems the richer PEG'S get, they tend to want to take over production "for" the people.

--

[REDACTED]

"May we never confuse honest dissent with disloyal subversion." quote by Dwight Eisenhower

2003-07



07/22/2003 12:14:54 AM

To: cabletv@dcca.hawaii.gov  
cc:

Subject: Topic Reply Notification - ISSUE #14: Programming (CSPAN for Hawaii)

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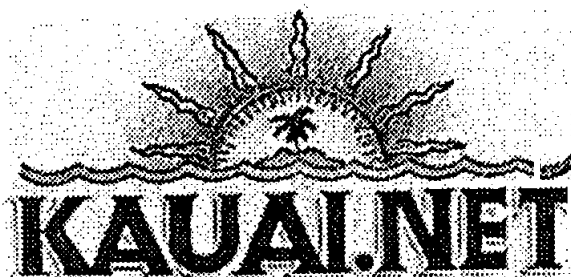
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Message

[Comment on draft PEG Plan](#)  
 Regular



Joined: 18 Jul2003  
 Posts: 16

Posted: Mon Jul21, 2003 1:36 pm    Post subject: ISSUE #14: Programming (CSPAN for Hawaii)    [quote](#)

### ISSUE #14: Programming (CSPAN for Hawaii)

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Carol Bain  
 Hyper Active



Joined: 05 Jul 2002

Posted: Mon Jul21, 2003 2:14 pm    Post subject: CSPAN    [quote](#)

The cable industry provides a fine service of programming called CSPAN and donates the channels for CSPAN & CSPAN2. I enjoy CSPAN and know it is **operated** and funded by Cable **TV** owners. It does not use government mandated **franchise** fees or PEG channels. If the monopoly Oceanic Time Warner Cable wants to provide an additional service called CSPAN Hawaii they are free to do **so, but not** with PEG franchise fees or PEG channels. 😊

Posts: 46

Carol Bain

"Freedom of the press is the staff of life for any vital democracy." quote by Wendell Willkie

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[profile](#) [12 pm](#) [email](#) [www](#)Ilgitaletye  
Guest**Posted:** Mon Jul 21, 2003 3:35 pm **Post subject:** Programming (CSPAN for Hawaii) [quote](#)

**HI-SPAN** sounds like a good idea and I agree that Oceanic Time Warner (Ocea TW) should donate the channel, but that will probably never happen because **SPAN** now has **3** channels and Oceanic TW only carries **C-SPAN 24/7** and **C-SP** till 4 pm. They have yet to provide **C-SPAN 3** at all. I 2

If a **HI-SPAN** channel were to come into existence the state legislature could mandate **KHET** to carry **It LIVE** on the new channels they will have once they convert to digital with the 2 million dollars allocated by the state. This would be a good exchange for that 2 million plus the almost **20%** of franchise fees they collect from all islands. Of course the legislature would have to come up with more funds for "Capitol TV" so they could provide more programming to fill the extra channels (s). ☺

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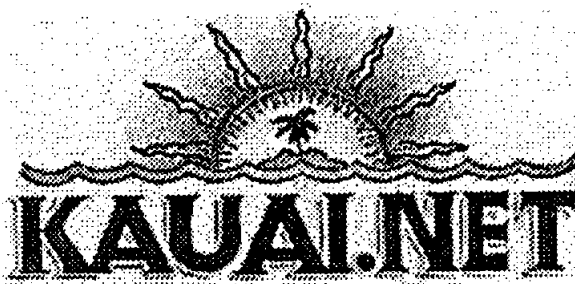
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2003-08



Patti K Kodama

07/22/2003 07:32 AM

To: CATV

CC:

Subject: Topic Reply Notification - ISSUE #16: Role of PEGs : Production versus Facilitation

----- Forwarded by Patti K Kodama/DCCA on 07/22/2003 07:40 AM -----



[REDACTED] 07/22/2003 05:34:46 AM

To: cabletv@dcca.hawaii.gov

cc:

Subject: Topic Reply Notification - ISSUE #16: Role of PEGs : Production versus Facilitation

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## ISSUE #16: Role of PEGs : Production versus Facilitation

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### Message

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PEG plan  
Regular

Posted: Mon Jul 21, 2003 1:38 pm Post subject: ISSUE #16: Role of PEGs : [quote](#)  
Production versus Facilitation

ISSUE #16: Role of PEGs : Production versus Facilitation



Joined: 18 Jul 2003  
Posts: 16

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Elitist  
Guest

Posted: Mon Jul 21, 2003 7:34 pm Post subject: Olelo looks like PBS wannabes [quote](#)

The idea that Olelo will unilaterally, and without open public proceedings, determine what the citizens of Hawaii need to see on TV is ludicrous and insulting!

It's particularly sad to see Olelo squandering serious money on thier poorly conceived

Olelo is elitist and arrogant, if they want to do 'in-house' productions, they should compete with independent producers who live in the real world.


Take Olelo funds away from the clique who control them and use the resources to build true access for every island!

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**Ed Coll**  
Hyper Active



Joined: 04 Jul2002  
Posts: 201  
Location: Here Now

Posted: Mon Jul21,2003 8:26 pm    Post subject: Amature social engineers?  **quote**

**Quote:**

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

Finally the crux of the matter put off to the very end. Education and Government users largely take care of themselves having the resources to produce and provide programming content. PEGs simply need to manage scheduling of G and E.

When it comes to their Public mission of training individual members of the public to use production equipment to create programming and then air that programming on the public access channel, the access organizations have been abject failures.

Instead of calling it "Mission Failure" they engage in Orwellian doublespeak and say the "needs of their clients have evolved." Apparently the DCCA has swallowed this



malarkey lock, stock, and barrel and are considering letting these failed access organizations engage in "community building."

Unless hubris has assumed the status of enabling legislation, by what authority do these untrained, unqualified, unelected, state funded employees presume to engage in community building?

I see nothing in the congressional intent nor the mission of PEG access which allows State mandated public monies to be used by access corporations to monopolize the public resources they manage to engage in social engineering.

---

Ed Coll

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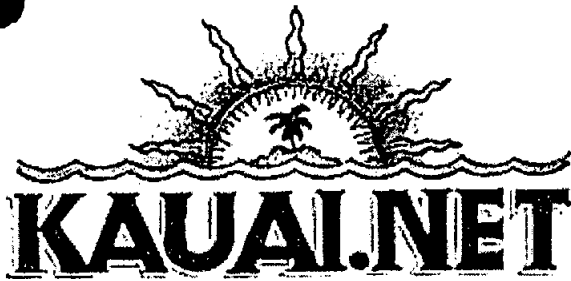
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2003-09



12212003

1:54 /

To: cabletv@dcca.hawaii.gov  
cc:

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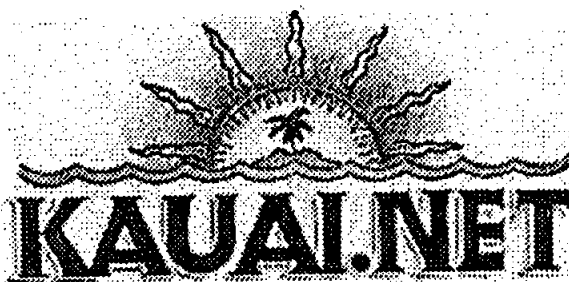
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[Posted: Mon Jul 21, 2003 1:36 pm](#)
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[Joined: 18 Jul 2003](#)  
[Posts: 16](#)

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Joined: 05 Jul 2002  
Posts: 46

with PEG franchise fees or PEG channels. ☺

Carol Bain

"Freedom of the press is the staff of life for any vital democracy." quote by Wendell Willkie

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diglaetye  
Guest

Posted: Mon Jul21, 2003 3:35 pm Post subject: Programming (CSPAN for Hawaii)

HI-SPAN sounds like a good idea and I agree that Oceanic Time Warner (Oceanic TW) should donate the channel, but that will probably never happen because C-SPAN now has 3 channels and Oceanic TW only carries C-SPAN 24/7 and C-SPAN 2 till 4 pm. They have yet to provide C-SPAN 3 at all.

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Eld Coll  
Hyper Active



Joined: 04 Jul 2002  
Posts: 201  
Location: Here Now

Posted: Tue Jul22, 2003 8:32 am Post subject: Your Boondoggle is on the way!

[quote](#)

**Quote:**

Some members of the community have identified a need for more civic affairs programming including State and County legislative, executive and judicial proceedings, as well as community based activities such as neighborhood board meetings.

These "members of the community" wouldn't happen to be members of access boards and their state funded employees would they? ☺

**Quote:**

The goal is to provide statewide distribution of civic/ public affairs television Programming as a means to encourage democratic participation and public interest through cablecasting. This endeavor will require the commitment and cooperation of many organizations including coordination of their resources.

I thought this type coverage was the responsibility of the G channel? With the exception of Neighborhood boards (which should be produced by the public for airing on the P channel) everything cited above is a governmental process and the government should already be committed to encouraging democratic participation in these processes. Instead of throwing out good money after bad the question should be "why isn't this type of programming already being done by the government?"

Quote:

There are many alternative approaches to accomplish these objectives, such as the expansion and enhancement of "G" programming currently provided by each of the four PEG access organizations.

That makes sense to me with increased government funding to outsource the production to competitive bidding by video professionals.

Quote:

Another option which has been suggested is the creation of a separate, independent non-profit entity which would produce and distribute public affairs programming in Hawaii, similar to what CSPAN does on a national level. This non-profit would be responsible for managing the creation and distribution of public affairs programming on a statewide basis. A source or sources of financial support would need to be identified. Also, there are issues concerning channel capacity which would need to be addressed.

This "CSPAN for Hawaii" sounds like a boondoggle idea from the access organization boards and their state funded employees attempting to distance themselves even further from the public they serve and their mission of turning passive viewers into active speakers.

CSPAN is voluntarily funded by cable television industry and receives no government or government mandated funds. It is not public access since the public does not produce nor exert editorial control over content. State mandated PEG monies should not be used for this purpose. If C-SPAN is the model then the source of financial support and channel capacity should be the monopoly cable television industry in Hawaii - Oceanic Time Warner Cable. If OTWC wants to voluntarily fund a CSPAN Hawaii as part of being a good corporate citizen that would be an excellent contribution to the community.

Ed Coli

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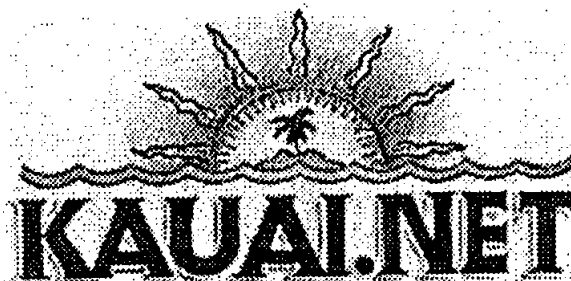
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### ISSUE #1: Expanded Role for Counties in Cable Regulation



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Author

Message

Comment on draft PEG plan  
Regular

Posted: Fri Jul 18 2003 5:35 pm Post subject: ISSUE #1: Expanded Role for Counties in Cable Regulation

[quote](#)



Joined: 18 Jul 2003  
Posts: 16

**ISSUE #1: Expanded Role for Counties in Cable Regulation** (Click here to review **ISSUE #1**)

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**Eid Coll**  
Hyper Active



[quote](#)

#### DCCA wrote:

'Olelo allocates twenty-five percent (25%) of its revenues from Franchise fees to HENC to Fund educational programs and services that are primarily cablecast on two of 'Olelo channels.



Joined: 04 Jul2002  
Posts: 201  
Location: Here Now

Is this **25%** allocation in addition to other allocations and services provided to public and private upper and lower educational users?

Ed Coll

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Guest

**Posted: Mon Jul 21, 2003 6:49 pm** Post subject: ISSUE #1: Expanded Role for Counties in Cable Regulation

[quote](#)

To answer your question about the **25%**, I first must correct the author of the draft, the conflicted cable regulator Clyde Sonobe, by stating that 'Olelo does allocate the **25%** because it is mandated in Decision and Order (D&O) **261**!! yes, this is in addition to other allocations and services provided to public and private upper and lower educational users. Hawai'i Association of Independent Schools gets funds from the **25%** to do a show and the producer of the shows uses 'Olelo's Facilities. Also on top of the **25%** 'Olelo provides playback supervision and relay of the educational channels as well as having **2** satellite centers at Kahu & Waianae High Schools that are used for course curriculums during school hours. 'Olelo also supposedly provides old equipment "as grants" to the schools. None of these extras are counted as part of the E budget of P, E, & G and has long been a point of contention, and in spite of that has yet to be properly addressed.

Now on to my comments on to the topic of "Expanded Role for Counties in Cable Regulation". I will simply say that I believe all counties should have a say in the regulation of the cable company doing business and collecting fees on their island(s). I don't feel it is fair for a bureaucrat in an office on Oahu to make all the decisions for communities many miles across the ocean, especially when more than 20% of the funds from neighbor islands now come back to be spent on Oahu. Perhaps the state can deal with the monopoly company for collection purposes, but the counties should be in charge of fund distribution.

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Carol Bain  
HyperActive

**RE RE RE RE**



Joined: 05 Jul2002  
Posts: 46

**Posted: Mon Jul 21, 2003 8:01 pm** Post subject: County role in PEG

[quote](#)

**It seems clear the state is not comfortable in the role of regulating PEG...at least for neighbor islands. The DCCA Director rarely knows who s/he is appointing.**

**The state created the mess by insisting on controlling the \$ and boards. Now they want the Counties to take the unwanted, undisciplined child.**

I would like to see what the Counties think of the idea. The Counties should certainly not take over until a full state audit is performed.

I just want accountability and oversight...the current PEG board on Kauai is an elite group, with a closed nomination process and now only meets quarterly. They do not follow HRS-92F UIPA or seem to understand the law. The board actions do not support "sunshine" HRS92. The public, no matter how meek or quiet, is made

to feel unwelcome. ☹

If County regulation would support accountability and openness, with an entire new board or commission chosen in open nominations and public process, then I am for it.

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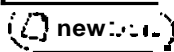
Carol Bain

"Freedom of the press is the staff of life for any vital democracy." quote by Wendell Willkie

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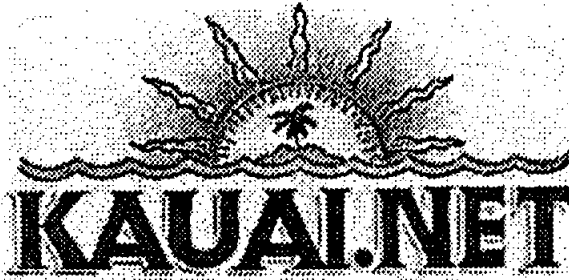
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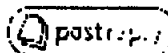
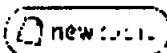


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### ISSUE #2: Governance - PEG Board Appointment Process



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Author

Message

**Comment on draft PEG plan**  
Regular

1 1 1 1 1



Joined: 18 Jul 2003  
Posts: 16

Posted: Fri Jul 18, 2003 5:33 pm  
Appointment Process

Post subject: ISSUE #2 Governance - PEG Board Appointment Process [quote](#)

### ISSUE #2: Governance - PEG Board Appointment Process [\(Click here to review - ISSUE #2\)](#)

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**Coll**  
HyperActive  
1 1 1 1 1



Posted: Fri Jul 18, 2003 6:33 pm Post subject: Appoint our board for us please! [quote](#)

Upon what basis does DCCA make the assertion that the differing number of board members reflect the unique wishes of each board rather than DCCA which appointed the majority of the board members? It seems odd that all four access organization boards that claim to be private 501-c (3) non-profit corporations that are exempt from state Sunshine Law, would insist that the DCCA (a government

joined: 04 Jul 2002  
Posts: 201  
Location: Here Now

agency) appoint the majority of the access organizations board rather than prefer to appoint their own successors, or have their membership elect the board. Have any of the access organization requested or suggested an arrangement different from the DCCA board appointment process currently in place? Are public documents? May I examine these documents?

Ed Coll

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digitaleye  
Infrequent

Posted: Mon Jul 21, 2003 8:14 pm Post subject: any different PEG Board Appointment Process?

Ed,

joined: 19 Jul 2003  
Posts: 1

You asked "Have any of the access organization requested or suggested an arrangement different from the DCCA board appointment process currently in place?" The answer is YES. In 2001 Akaku changed there bylaws to remove the appointment power from the DCCA.

I'd say you could say it's public record: <http://hpam.hi.net/akaku/>

jg

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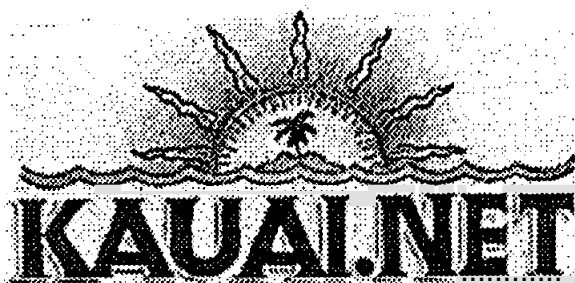
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2003-13



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### ISSUE #3: Cable Advisory Committee

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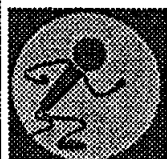
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(Comment on draft PEG  
plan

Posted: Fri Jul 18, 2003 5:19 pm Post subject: ISSUE #3: Cable Advisory  
committee

[quote](#)

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**ild Coll**

HyperActive

■■■■■



Posted: Fri Jul 18, 2003 6:35 pm Post subject: More info on appointment process  
please?

[quote](#)

Are applications received public record ?

May I examine them ?

Are board recommendations to DCCA public record ?

May I examine them ?

Joined: 04 Jul 2002  
 Posts: 201  
 Location: Here Now

the board recommendations for appointment ⑥  
 Are these rejections public record ⑥  
 May I examine them ⑥  
 May an individual member of the public directly request appointment From the director of the DCCA ⑥  
 How many times has this occurred ⑥  
 How many member of the public directly requesting appointment by the director of DCCA have been appointed ⑥  
 Are these appointments public record ⑥  
 May I examine them ⑥  
 Are the requests for appointment rejections public record ⑥  
 Has the cable operator or the Director of DCCA ever removed a director ⑥  
 If so how many directors were removed and by whom ⑥  
 When were they removed ⑥  
 Were They removed with cause ⑥  
 From which access organizations were these directors removed ⑥  
 Are these removals, cause for removal, and related documents public record ⑥  
 May I examine them ⑥  
 Please cite the authority by which the Director of DCCA and the cable operator have the authority to remove directors once they are appointed.

Ed Coil

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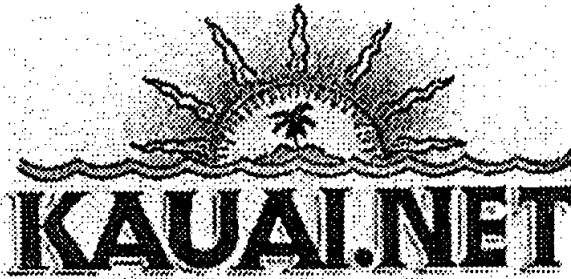
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### ISSUE #5: PEG Channel Resource

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Author

Message

Comment on draft PEG  
plan  
Regular



☐ Posted: Fri Jul 18, 2003 5:17 pm
 ☐ Post subject: ISSUE 15: PEG Channel Resource
 [quote](#)

**ISSUE #5: PEG Channel Resource** @ (Click here to review -  
ISSUE #5)

Posts: 16

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Ed Coil  
Hyper Active



☐ Posted: Fri Jul 18, 2003 6:38 pm
 ☐ Post subject: Re: Page 7
 [quote](#)

DCCA wrote:

The Cable Advisory Committee ("CAC") is intended to advise the Director and cable operators, upon request, with cable television related matters.-

oined: 04 Jul 2002  
 Posts: 201  
 Location: Here Now

Since the CAC only advise the Director or cable operators "upon request" how many times has the Director or cable operators make such requests? Are **these** requests public record? May I examine them? How many times before **1990** did **CAC** meet? Are the minutes of these meetings public record? May **I examine them**? Why has this become an issue **12** years after the last meeting? What entities **raised** this as an issue.

---

Ed Coll

Last edited by Ed Coll on Fri Jul18, 2003 6:54 pm, edited 1time in total

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Ed Coll  
 HyperActive



oined: 04 Jul2002  
 Posts: 201  
 Location: Here Now

Posted: Fri Jul18, 2003 6:55 pm Post subject: Re: Why Take Action?

[quote](#)

**DCCA wrote:**

Option 1: Appoint members to the CAC

Under this option, the Governor would appoint five members to the CAC. Current law does not specify residency or other requirements for membership. However, the Governor could select representatives from each of the four counties.

Since the CAC has outlived it's role and has not met since **1990** why would the Governor take this action?unless the Governor or Director feel the CAC has not outlived it's role.

---

Ed Coll

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Ed Coll  
 Hyper Active



oined: 04 Jul2002  
 Posts: 201  
 Location: Here Now

Posted: Fri Jul18, 2003 6:56 pm Post subject: Re: Has the law been violated?

[quote](#)

**DCCA wrote:**

Option 2: Introduce legislation to eliminate the CAC

Such leaislation would be appropriate if the CAC has outlived its usefulness.

Why is the introduction of such legislation necessary unless the enabling language is absolutely clear that the Governor shall appoint and the previous and current administrations are in violation of the law by failing to appoint? **If** the law has **been** and is being violated should the attorney general be informed by the Director?

---

Ed Coll

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Ed Coll  
 Hyper Active



Posted: Fri Jul18, 2003 6:57 pm Post subject: Re: What is the rational?

[quote](#)





Joined: 04 Jul 2002  
Posts: 201  
Location: Here Now

**DCCA wrote:**

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

What is the rationale for this agreed upon limitation and who are the parties to this agreement?

Ed Coll

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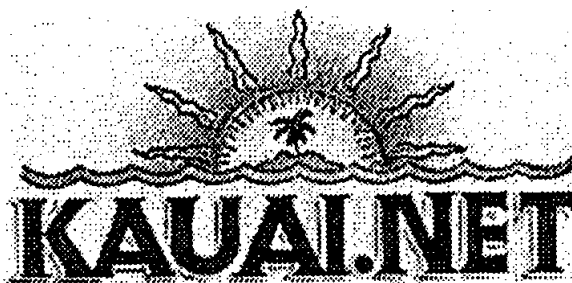
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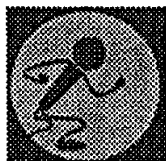
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Comment on draft PEG plan

Regular

■ ■ ■



Joined: 18 Jul 2003  
 Posts: 16

Posted: Fri Jul 18, 2003 5:14 pm Post subject: ISSUE #6: Sustainability

[quote](#)

ISSUE #6: Sustainability (Click here to review - ISSUE #6)

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Ed Coil

Hyper Active

1 1 1 1 1



Joined: 04 Jul 2002

Posted: Fri Jul 18, 2003 6:48 pm Post subject: Re: Who are these observers?

[quote](#)

### DCCA wrote:

Some observers have suggested that there should be some mechanism to redistribute franchise fees so that neighbor islands receive a larger percentage of the statewide total. They suggest that absent such redistribution, some areas of the neighbor islands are not able to receive even a minimal "baseline" of access

Posts: 201  
Location: Here Now

services.

Whom are these observers? Are their observations public record? May I examine them?

---

Ed Coll

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**Guest2**  
Guest

**Posted:** Mon Jul 21, 2003 7:23 pm **Post subject:** reply

[quote](#)

The "observers" were actually independent consultants contracted by the State to evaluate the cable regulatory regime. Experts studied the current disproportionate funding that keeps most of the PEG access resources locked up in Honolulu and recommended a better rationale and funding distribution method.

Of course, DCCA should make these studies and reports part of the public record and part of the foundation of this state plan.

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**Mouser**  
Guest

**Posted:** Mon Jul 21, 2003 7:27 pm **Post subject:** bogus question

[quote](#)

On this issue the DCCA poses a bogus question! The REAL question is what is DCCA doing to secure future resources to ensure that PEG access continues as a critical and essential public service!

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**CarolBain**  
HyperActive

■ ■ ■ ■ ■



Joined: 05 Jul 2002  
Posts: 46

**Posted:** Mon Jul 21, 2003 7:40 pm **Post subject:** no money

[quote](#)

When you review other PEG access facilities around the nation, those that get much \$ have a harder time fulfilling their mission of training & facilitating the public to make their own messages. This is because the money attracts the worst elements in the community --the greedies. ☹

All the PEG's in Hawaii have enough \$. I just wish they would stop trying to "grow" and start just doing their original mission: Turn speakers into video message makers and facilitating free speech. It really does not take a lot of \$ to do this out a basic facility and the clear vision toward the goal of promoting (not pre-producing) free speech. ☺

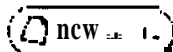
Seems the richer PEG's get, they tend to want to take over production "for" the people.

---

Carol Bain

"Freedom of the press is the staff of life for any vital democracy." quote by William Willkie

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2003-16

**DRAFT – FOR COMMENT****Department of Commerce and Consumer Affairs' ('DCCA') Plan  
For Public, Education, and Government ("PEG") Access**Introduction Background

Please keep in mind that this is the second attempt at a Statewide PEG Access Plan. **Here** is the first.

ISSUE #1: Expanded Role for Counties in Cable Regulation

Option 1: Continue with current framework

Option 2: Expand the Counties' Role

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

Option 2: Self appointment by the PEG Boards

ISSUE #2: Governance - PEG Board Appointment Process

Option 3: Appointments by Various Entities

Option 4: Election by PEG constituents

Option 5: Establishment of a Mechanism for Public and Producer Input

Option 1: Appoint members to the CAC

ISSUE #3: Cable Advisory Committee

Option 2: Introduce legislation to eliminate the CAC

Option 3: Introduce legislation to amend composition of the CAC

ISSUE #4: Financial Resources

Option 1: Continue with the current financial structure

Option 2: Should franchise fees be redistributed among the Counties?

ISSUE #5 : PEG Channel Resource

Option 1: Seek funding from other sources

ISSUE #6: Sustainability

Option 2: Identify acceptable "for profit" activities as part of PEG mission

ISSUE #7: Greater Community Participation

Mobile Facilities

Alternate Sites

Facilitated Production

Equipment and Staffing

ISSUE #8: Cooperation and Collaboration Among PEG Organizations

Equipment Resources

Personnel Resources

Programming Resources

ISSUE #9: PEG By-laws

Compliance to bylaws and adherence to

Robert's Rules of Order

or how about "Sunshine" Laws ???

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

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

ISSUE #12: Development of technical standards

ISSUE #13: Review of connectivity (PEGNetwork)

ISSUE #14: Programming (CSPAN for Hawaii)

ISSUE #15: Resolution of complaints concerning PEGs

ISSUE #16: Role of PEGs : Production versus Facilitation

almost appears DCCA supports in-house productions!

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

The DCCA is currently evaluating issues relating to PEG access in Hawaii. The goal to develop a statewide cable access plan which will set forth the State's policies towards

PEG access. That plan will guide the development and enhancement of services provided by PEG Access Organizations.

This document is intended to initiate a public discussion concerning the State's current policies towards PEG access, and possible changes in those policies. It identifies the State's policies and practices regarding significant issues in PEG access, and identifies some possible alternatives for change which have been suggested by various parties in recent years. However, the list of issues and options is by no means final, and DCCA welcomes the public's input on what other issues and options should be considered as DCCA develops the plan.

DCCA is making this document available for public comment. The public is welcome to comment specifically on the issues identified in this document, or more generally on their views concerning PEG access in Hawaii. The public can comment in writing, by email or at public forums. These forums will be scheduled in each county and will be an opportunity to provide input to the DCCA in finalizing its plan.

Email comments should be addressed to [cabletx@dcca.hawaii.gov](mailto:cabletx@dcca.hawaii.gov). Written comments should be addressed to:

Cable Television Division  
Department of Commerce and Consumer Affairs  
State of Hawaii  
1010 Richards Street, 2nd Floor  
Honolulu, Hawaii 96813  
(808) 586-2620

Once this document has been circulated and public comments reviewed, DCCA will finalize the plan and make it available for general distribution.

## Background

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

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

Following are the PEG corporations:

- 1 -

Hawaii Na Leo 'OHawaii, Inc. (Na Leo")

Kauai Hoi'ke - Kauai Community Television, Inc. ("Hoike")

Maui Akaku - Maui County Community Television, Inc. ("Akaku")

Oahu 'Olelo - The Corporation for Community Television ("Olelo")

Each of these access organizations is funded by fees which are collected by the cable operator from its subscribers. Federal law states that an LFA can assess up to **5%** of the cable tv operator's gross revenues for purposes of these franchise fees. For example, if subscriber's monthly invoice for cable service totals \$100.00, the franchise fee assessed for that subscriber cannot exceed \$5.00. The recipients of these fees include the four PEG access organizations, the DCCA and the Hawaii Public Television Foundation ("HPTF"). The HPTF is better known to many as KHET Public Television.

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

**3%** To the PEG access organization for the specific County where fees are collected

**1%** To the Hawaii Public Television Foundation (Public Television - PBS)

**.64%** To the DCCA to support the administration of the program

Note: DCCA receives 1% of standard service revenues, not gross revenues.

1% of standard service revenues are approximately **.64%** of gross revenues.

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

The PEG access organizations also receive channel capacity on the cable tv operators' systems. All four PEGs have been authorized the use of five (**5**) channels; to date, on y 'Olelo on the island of Oahu has all **5** channels cablecasting programming on a full time basis. Additional channels can be requested by the PEGs, with supporting documentation.

These requests will be reviewed by the DCCA who will then enter into discussions with the cable operator. Based on the results of this review process, DCCA will then make a decision on the request for additional channel(s). The review criteria include items such as current use of channels in production, percentage of first time versus re-run



programming, channel utilization by local producers, and other factors related to channel demand.<sup>2</sup>

Note: On Oahu, 'Olelo has entered into a contract with the Hawaii Educational Network Consortium ("HENC") to be its Education Program Manager. HENC is a consortium comprised of representatives from accredited educational institutions within Hawaii including public and private lower and higher education schools such as the University of Hawaii, Department of Education, and Hawaii Association of Independent Schools.

<sup>1</sup> It used to be 10% of the channels being provided by the cable company.

<sup>2</sup> As this says the list of criteria "includes" and it says "other factors" a comprehensive list, which should be public record, should be requested.

- 2 -

'Olelo allocates twenty-five percent (25%) of its revenues from franchise fees to HENC to fund educational programs and services that are primarily cablecast on two of 'Olelo channels.

## **ISSUE #1: Expanded Role for Counties in Cable Regulation**

Currently, the State of Hawaii through the DCCA performs the regulatory functions pertaining to the cable television industry in Hawaii. Major activities include basic service tier rate regulation, franchise applications/ renewals/ transfers, resolution of customer service complaints, appointment of PEG boards, negotiation of operating agreement with PEGs, and the expansion and functional improvements of the Institutional Network ("INET"). The DCCA also participates in matters indirectly related to cable television, such as advocating for the interests of Hawaii consumers with regard to Direct Broadcast Satellite ("DBS"). The DBS industry is regulated on the federal level by the FCC and is not regulated on the State or Local level.

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

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

## Regulatory Framework Options:

### Option 1: Continue with current framework

### Option 2: Expand the Counties' Role

This option could range from providing an increased role for the Counties at the State level, to a total transfer of the regulation of the cable television industry from the State to each County government.

One approach would be to establish a greater role for the Counties, while retaining some duties for the State. The possibilities include one or more of the following:

***Partial Shift of Franchising Authority:*** The Counties could take the lead in negotiating the specific terms and conditions of franchises in their county, while the State would retain the right to review and approve the final product. This would give Counties the ability to shape the agreements to suit their unique needs, while allowing the State to ensure that statewide interests (such as access to the **INET**) are adequately protected.

- 3 -

***PEG activities:*** Each County could be responsible for the activities of its PEG access organization. For example, the Counties could be responsible for selection of board members, negotiation of contracts with the PEGs and/or facilitating the resolution of complaints.

In addition, a planning entity, composed of members from each County, could be organized to develop and implement strategies to continue the collaboration between these independent PEG organizations.

***Cable Advisory Committee (CAC)*** The Counties could have a greater role in cable governance

at the State level through representation on the DCCA's cable advisory committee. Issues concerning the committee are discussed in more detail below.

Another approach would be a total transfer of duties and responsibilities of the DCCA as the local franchising authority, via amendment of State laws, to each County. Thus, each County would be empowered to determine the appropriate assessment and distribution of franchise fees within the County, would negotiate directly with cable operators on the terms and conditions of their franchise agreements, and would establish their own policies on PEG access issues. In summary, each County would be able to determine what policies were best for that County, and complaints or concerns about cable service or PEG access would be resolved at the County level.

As noted above, the DCCA's regulation of the cable industry is currently supported by a portion of the franchise fee. To the extent functions currently performed by the DCCA

are transferred to the counties, funding could be re-allocated from the DCCA to the counties to support those functions.

## **ISSUE #2: Governance - PEG Board Appointment Process**

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

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

- 4 -

The DCCA acknowledges the autonomy and decision making authority of each PEG board of directors, and accordingly does not involve itself in the daily operational and financial management of the access organization. Each PEG board is responsible for all financial and operational management matters, including the resolution of complaints from its producers and stakeholders. The DCCA and each PEG organization have a contract currently in force that is automatically renewed annually unless terminated or modified.

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

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

The issue of governance, specifically the appointment of board directors, has been a much debated topic over the past few years. One argument in favor of continued DCC

involvement concerns the funding of the PEG sFranchise fees are the result of orders issued by the DCCA to the cable operator. The cable operator is ordered by the DCCA to calculate, collect and distribute funds from cable subscribers for PEG purposes. The DCCA has historically believed that it needs to exercise oversight of the expenditure of these funds. The current board appointment process provides the DCCA with some amount of oversight, both through the selection of directors and through the power of removing directors. Proponents of change argue that the DCCA retains adequate oversight through the annual reporting and contract renewal process. They believe that the DCCA has adequate oversight by the fact that the contract can be renegotiated or not renewed.

### **Possible Governance Options:**

There are a number of possible options, some of which are identified here. The options could be combined, i.e., board members could be selected by several different means. One key question is whether different approaches should be allowed in each of the different counties, or whether there should be uniformity across the State.

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

#### **Option 2: Self appointment by the PEG Boards**

This will provide the board of each PEG access organization with autonomy in the recruiting, selection and appointment of its board members. The current board of directors for each access organization will be responsible for the appointment of future board members. Public notice of vacancies and a published nomination process will be required. In this scenario, the DCCA could also be represented on each board in an ex-officio role.

#### **Option 3: Appointments by Various Entities**

This option would provide for appointment of board members by entities or individuals other than the DCCA, or the cable operator, such as the Mayor of each county, county councils, or the Legislature. This may provide more diverse representation.

#### **Option 4: Election by PEG constituents**

This will provide the constituents of PEG access organizations with the ability to participate in the selection and appointment of board members. Constituents could include viewers, cable subscribers, producers or other interested parties. Candidates for vacancies could be identified by a nomination committee or by interested candidates simply submitting an application or letter of interest. An election, conducted by the

access organization, would then be held to determine the new board member. The election process ( mail- in ballots, electronic: email, internet ) would be left to each access organization.

### **Option 5: Establishment of a Mechanism for Public and Producer Input <sup>3</sup>**

Some PEGs have established a process that allows public and producer input into their policy formulation and decision making. This can foster an atmosphere of open participation that allows various viewpoints to be considered by the PEG board of directors as part of their decision making process.

Should the DCCA require the establishment of a process by each PEG that will allow public and producer input into matters being considered by the boards of directors, and so, what form should that process take?

<sup>3</sup> This has already been done at 'Olelo with their CPAC and then the ASAC committees and boards have proven ineffective in resolving client concerns.

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### **ISSUE #3: Cable Advisory Committee**

The Cable Advisory Committee (~~CAC~~) is intended to advise the Director and cable operators, upon request, with cable television related matters. The committee is comprised of five (5) members who are appointed by the Governor and serve without pay but are entitled to reimbursement of necessary expenses. The committee last met in 1990, and the last member's term expired in 1996. No replacement members have been named since then. It appears that the prior Administration believed that the CAC had been established to provide guidance during the formative years of cable regulation, and that it had outlived that role.

#### **Cable Advisory Committee Options:**

##### **Option 1: Appoint members to the CAC**

Under this option, the Governor would appoint five members to the CAC. Current law does not specify residency or other requirements for membership. However, the Governor could select representatives from each of the four counties.

##### **Option 2: Introduce legislation to eliminate the CAC**

Such legislation would be appropriate if the CAC has outlived its usefulness.

### **Option 3: Introduce legislation to amend composition of the CAC**

Increase the size of the CAC so that more points of view can be represented, or otherwise modify the structure and / or role of the CAC.

## **ISSUE #4: Financial Resources**

As stated previously, franchise fee assessments are consistent statewide, except for an agreed upon limitation that is in place for 'Olelo on Oahu. 'Olelo is subject to a **\$3.71** cap that may increase annually based on the Consumer Price Index ("**CPI**"). This calculated cap amount is compared against the actual **3%** calculation, and the lower amount is remitted to 'Olelo.

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

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

<sup>4</sup> Decision and Order #261 (which took away millions of dollars from PEG), #21 (which created a statewide cable monopoly for AOL Time Warner) and # 135 (which gave 20% of the franchise fees PBS Hawai'i [a "broadcast" not "cablecast" entity] without a proper hearing) were all done without the benefit of advice from the Cable Advisory Committee, no wonder they felt "that it had outlived that role".)

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2) 1% of gross revenues to the Hawaii Public Television Foundation (Public Television PBS) <sup>5</sup>

3) 1% of standard service revenues to the DCCA

Note: Approximately 0.64% of gross revenues

Due to the differences in population as well as differences in cable services purchased by subscribers, franchise fees vary widely among the four counties. Under current DCCA policy, the fees collected in each County remain in that County. Fees collected for each PEG access organization in 2002 are: <sup>6</sup>

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

### Financial Resources Options:

#### Option 1: Continue with the current financial structure

#### Option 2: Should franchise fees be redistributed among the Counties?

Currently, franchise fees for PEG access collected in a particular County remain there for the benefit of its residents. Some observers have suggested that there should be some mechanism to redistribute franchise fees so that neighbor islands receive a larger percentage of the statewide total. They suggest that absent such redistribution, some areas of the neighbor islands **are** not able to receive even a minimal “baseline” of access services.

One possible approach would be to redistribute any fees assessed in excess of a certain amount on Oahu. That amount could be the **\$3.7**million cap that is already in place for ‘Olelo, or it could be some other amount. A formula or some other process to allocate these funds would need to be implemented to ensure fairness in distribution.

### ISSUE #5: PEG Channel Resource

Currently, all PEG have access to five (5) channels on the cable operator’s cable systems in each County. Only ‘Olelo on Oahu has activated and is cablecasting programming on all five channels.

<sup>5</sup> 1% of the **4.5%** of the gross revenues amounts to just under 20% of **all** the franchise fees statewide which amounts to \$1,583,650.<sup>00</sup> according to PBS Hawaii’s 2002 Income Tax Return.

<sup>6</sup> Please keep in mind these figures are only Operational funds and **do** not include Capital funds, which in ‘Olelo’s case have generally exceeded \$250,000.<sup>00</sup> a year and up to as much as 1.25 million one year. Their minimum allotment of Capital funds usually exceeds the Operational funding that Ho’ike receives, and Ho’ike’s Capital funds are approximately only **\$25,000.00** Please note that they did not even

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

two (2) "E" channels dedicated to the UH and DOE. HENC is composed of members representing the UH, DOE, East West Center ("EWC") and the Hawaii Association of Independent Schools ("HAIS").

Statewide broadcast capability from the State Legislature has recently been improved by having broadcast feeds sent directly to the UH for statewide carriage on UH's HITS 8 microwave network.<sup>7</sup> This will result in more efficient transmission of live legislative broadcasts to the neighbor islands. In addition to broadcasts from the State Legislature each PEG access organization has the resources to implement live broadcasts from their respective City/County councils and executive branch. At this time, not all PEGs have elected to implement live County government broadcasts.

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

## **ISSUE #6: Sustainability**

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



The question was first posed by the DCCA a few years ago as a discussion mechanism. The major item that prompted DCCA's request for plans of self sufficiency was the evolution of technologies that compete with cable tv. At first, wireless cable companies were the primary competition but lacked the market share to significantly impact the cable tv operators. Currently, there is a technology that may present true competition to cable tv, without cable's regulatory requirements: Direct Broadcast Satellite ("DBS"). The DBS industry is represented by two major vendors, DirecTV and Echostar (Dish

<sup>7</sup> 2003 is the first year LIVE Legislative Broadcasts have gone out to the Neighbor Islands, even though the 4th HITS channel they used this year has been unused for about the past 4 or so years (bandwidth hoarding)

<sup>8</sup> HITS = Hawai'i Interactive Television System

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Network). If these service providers continue to gain market share, at the expense of cable tv companies, revenues to all beneficiaries of franchise fees will decrease. In addition to competitive technologies, there is also the potential of an evolving cable tv industry. If cable tv companies provided their services through the use of new or innovative technologies, such as Wireless Fidelity ("WI-FI"), would they still be held to requirements such as franchise fees? The development of new delivery systems and technologies will be a significant consideration in future regulatory policy.

The second item that affects sustainability relates to regulatory issues facing telecommunications / entertainment companies and the services they provide. For example, the FCC has recently determined that cable modem service (Oceanic's Roadrunner) is an information service, not a cable service. Many jurisdictions, including the State, have questioned this opinion, which currently is being reviewed by the FCC and also being litigated in federal court. The cable modem issue illustrates the uncertainty in this area, i.e., that services currently assessed with franchise fees may not be assessed in the future. This uncertainty relating to designation of type of service and the applicability of franchise fees also holds true for services being developed and not yet

deployed. There is no certainty in how the FCC will identify a new service, whether as an information service or a cable service.

Given this uncertainty, how will PEGs continue providing current services while planning for additional, enhanced benefits? Should they seek other sources of revenues, and if so, what sources are appropriate? Should DCCA actively encourage and / or require PEGs to seek other sources of revenue, or should it be left to the discretion of the PEG entities?

### Sustainability Options:

### Option 1: Seek funding from other sources

In order to minimize dependence on cable tv related franchise fees and to increase available funding, should PEG access organizations pursue other sources of funding through various methods such as solicitation of grants, private –public joint ventures, and traditional fundraising activities?

### Option 2: Identify acceptable “for profit” activities as part of PEG mission

Although PEG programming is non-commercial in nature, should PEG organizations have the discretion to pursue certain “for-profit” activities, and if so, what activities would be acceptable?

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## ISSUE #7: Greater Community Participation

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

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

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

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

***Facilitated Production:*** PEGs currently provide the public with the option of creating programming without becoming a certified producer. Such easy access services include staff supported “open mike” (should be “openMIC”) sessions as well as volunteer supported facilitated productions. These types of assisted services greatly expand and enhance the impact of PEG resources to their communities.<sup>9</sup>

***Equipment and Staffing:*** Regardless of the alternatives implemented, whether remote mobile or collocated, the effectiveness of these options will be determined by their ability

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

<sup>9</sup> Please keep in mind that very few PEG Access centers nationwide do facilitated productions. It appears only those that have large operating budgets are doing this, and it is at the expense of their primary goal of training people to create programs themselves. This can be witnessed at ‘Olelo’s Mapunapuna facility on almost any day when there are only 3 of 11 edit bays in use.

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## **ISSUE #8: Cooperation and Collaboration Among PEG Organization**

The DCCA strongly encourages the PEG entities to collaborate and cooperate in order to maximize the resources available to each. By working cooperatively, the PEGs will hopefully reduce redundant, resource consuming activities. Resources can be leveraged and efficiencies maximized in this type of environment. Following are areas where resources may be leveraged <sup>10</sup>

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

***Personnel Resources:*** The DCCA encourages PEGs to share technical / support resources.

This may simply be regularly scheduled “roundtables” where staff from each PEG meet to share ideas, experiences, etc. Or it can be structured instructional sessions where a trained resource presents a certain topic. These sessions will not only increase the expertise available in each PEG access center, but it will also further enhance the sense of community among the PEGs themselves.

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

## **ISSUE #9: PEG Bylaws**

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

10 As can be witnessed in the last DCCA Statewide Plan, ‘Olelo’s Executive Director, Lurline McGregor was the only hold out for a cooperative statewide plan as she refused to contribute any funds that she now uses for her in-house productions that she takes to national video competitions to win trophies for herself.

11 BYLAWS: Akaku’s, Ho’ike’s, ‘Olelo’s (Na Leo doesn’t even have a website so there is nothing available in electronic format)

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The DCCA expects each PEG access organization to comply with their by-laws to remove the potential for complaints and inconsistent operations. Specifically, the DCCA is concerned with the process by which its board meetings are conducted and strongly

encourages the adoption and implementation of procedural rules, such as Roberts Rule of Order. Adoption and adherence to such rules will facilitate more productive, fair, and efficient meetings.<sup>12</sup>

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

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

#### **Chapter 92F UIPA Options:**

##### **Option 1: Legislative modifications to amend requirements**

Some of the Chapter 92F requirements may be unduly burdensome and / or costly for non-profit entities such as the PEGs to comply with. Legislation could be proposed which would streamline these requirements as applied to the PEGs while still ensuring openness on the part of the PEGs.

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

Although the DCCA recognizes the unique needs of all four PEG access organizations it strongly encourages the implementation of daily operational guidelines that address certain significant issues. For example, the daily operational procedures for all PEGs should include hours of operation. The DCCA is not implying that all PEGs keep the same hours, only that the hours of operation are included. By developing a consistent set of operational guidelines, it eases the transition for producers or constituents who may have the opportunity to utilize PEG facilities in more than one County. Other potential items could include:

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

<sup>12</sup> Hawaii's PEG Access centers' Bylaws already state "*Robert's Rules of Order shall govern the conduct of all meetings of the Board of Directors...*". This paragraph is an insult to Hawaii residents' intelligence. Adherence to Hawaii Revised Statutes Chapter 92 "sunshine law" (Open Meetings) is the only acceptable solution.

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**ISSUE #12: Development of technical standards**

The DCCA encourages the development of technical standards among the PEG stations that will result in certain baseline consistency among them. The creation of certain technical standards will result in the following benefits:

- similarly trained staff
- Cross support between organizations
- Additional resources during disasters and emergencies
- Potential purchasing benefits such as volume procurement

Similarly trained clients

Identical equipment

Playback

Tape formats

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

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

The following interconnections comprise the PEG Network:

- PEG access organization to the cable operator's headend facility
- UH and DOE to PEG organization, or directly to cable operator's headend facility
- County government to PEG organization, or directly to cable operator's headend facility

a list of all connection points available for public use has continually been requested, and

to date, there has been no such list forthcoming.

In most of the counties, the programming from the UH, DOE and government are consolidated at the PEG facility then sent on to the cable operator's facility. Although this has been historically done, the DCCA will consider other options acknowledging that at

there may be costs that would need to be addressed by the requesting entities.

what about Ho'ike having to have Kauai Community College do their playback?

### **ISSUE #14: Programming(CSPAN for Hawaii)**

Some members of the community (who? P E or G or access administrators?) have identified a need for more civic affairs programming including State and County legislative, executive and judicial proceedings, as well as community based activities such as neighborhood board meetings.

The goal is to provide statewide distribution of civic / public affairs television programming as a means to encourage democratic participation and public interest through cablecasting. This endeavor will require the commitment and cooperation of many organizations including coordination of their resources.

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There are many alternative approaches to accomplish these objectives, such as the expansion and enhancement of " G programming currently provided by each of the four PEG access organizations. Another option which has been suggested is the creation of a separate, independent non-profit entity which would produce and distribute public affairs programming in Hawaii, similar to what CSPAN does on a national level. This non-profit

would be responsible for managing the creation and distribution of public affairs programming on a statewide basis. A source or sources of financial support would need to be identified. Also, there are issues concerning channel capacity which would need to be addressed.

### **ISSUE #15: Resolution of complaints concerningPEGs**

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

@ complaints received regarding its operations and management.

but alas, this does not happen. All they do is double-speak

However, situations have arisen where the DCCA's involvement is required to assist in the resolution of inquiries and complaints received from PEG producers or other constituents. In these instances, the DCCA will attempt to facilitate a reasonable solution / compromise that address the concerns raised while also respecting the policy and decision making of the PEG's board of directors. To accomplish this objective, DCCA will relay complaints to the PEGs and request a copy of the responses to those complaints.

The appropriate resolution of complaints by the PEGs is a factor taken into account by the DCCA in evaluating the performance of each PEG.

but when someone says that the response from the board/admin is unacceptable, that's the end of it!

### **ISSUE #16: Role of PEGs: Production versus Facilitation**

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

the public users of these access facilities. The development of such programming is sometimes referred to as "community building".<sup>xxx</sup>

<sup>xxx</sup> by insertion of Facilitated Productions twice in this plan it would appear they are hell bent on getting this accepted as the norm, which it isn't, unless of course you want PEG Access to become Mini PBS.

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



undertake such activities, and if so, should there be any limits on that discretion?

There should be documented criteria for any such facilitated productions as required by the **IRS**. I think a better solution is to have a pool of funds set aside for the purpose of production grants. This would allow independent producers, access centers, **PBS** Hawaii nonprofits and other entities a level playing field to obtain financial assistance in presenting their issues, rather than an elite group of nonprofit pimps deciding behind closed doors whose message is worthy of public fund support.

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2003-17



[REDACTED] 07/26/2003 06:26:59PM

To: cabletv@dcca.hawaii.gov  
cc:

Subject: Topic Reply Notification - ISSUE #10-Chapter 92F Uniform Information Practices Act

Charset: iso-8859-1

Hello Comment on draft PEG plan,

You are receiving this email because you are watching the topic, "ISSUE #10-Chapter 92F / Uniform Information Practices Act" at Kauai Net Listening Post. This topic has received a reply since your last visit. You can use the following link to view the replies made, no more notifications will be sent until you visit the topic.

<http://host14.ipowerweb.com/~kauainet/phpBB2/viewtopic.php?p=1535#1535>

If you no longer wish to watch this topic you can either click the "Stop watching this topic link" found at the bottom of the topic above, or by clicking the following link:

<http://host14.ipowerweb.com/~kauainet/phpBB2/viewtopic.php?t=359&unwatch=topic>

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Aloha,  
Kauai Net