

ENROLLMENT(S)



(5)

COUNCIL OF THE DISTRICT OF COLUMBIA

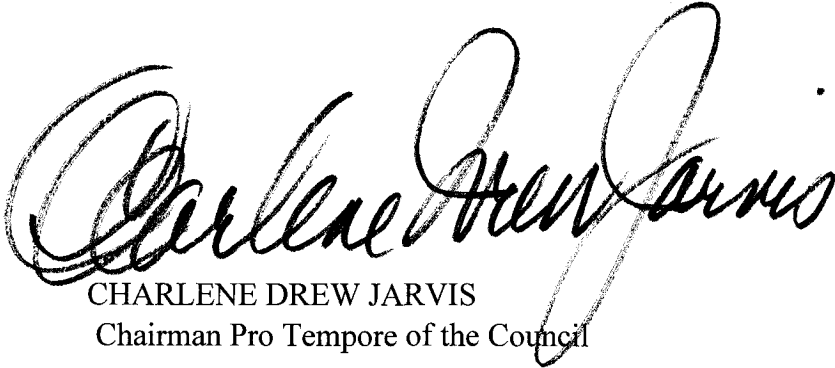
NOTICE

D.C. LAW 11-210

"Cable Television Franchise Amendment Act of 1996".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 11-173, on first and second readings, July 3, 1996 and July 17, 1996, respectively. Following the signature of the Mayor on August 6, 1996, pursuant to Section 404(e) of "the Act", and was assigned Act No. 11-386, and published in the August 30, 1996, edition of the D.C. Register (Vol. 43 page 4702) and transmitted to Congress on January 15, 1997 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 11-210, effective April 9, 1997.



CHARLENE DREW JARVIS
Chairman Pro Tempore of the Council

Dates Counted During the 30-day Congressional Review Period:

Feb. 3,4,5,6,7,10,11,12,13,24,25,26,27,28
Mar. 3,4,5,6,10,11,12,13,14,17,18,19,20,21
Apr. 7,8

AN ACT
D.C. ACT 11-386

*Codification
District of
Columbia
Code
1997 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 6, 1996

To amend the Cable Television Communications Act of 1981 to establish a procedure to award additional cable service franchises.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Cable Television Franchise Amendment Act of 1996".

Sec. 2. The Cable Television Communications Act of 1981, effective August 21, 1982 (D.C. Law 4-142; D.C. Code § 43-1801 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Code § 43-1802) is amended as follows:

(1) A new paragraph (1A) is added to read as follows:

"(1A) The term "Advisory Committee" means the District of Columbia Cable Television Advisory Committee established by section 4."

(2) Paragraph (3) is amended to read as follows:

"(3) The term "basic service" means the tier of cable service containing local broadcast signals; public, educational, and municipal access channels, unless a franchise agreement requires that any such access channels be carried on another tier of cable service; and any additional video programming services voluntarily offered by a franchisee."

(3) New paragraphs (4A) and (4B) are added to read as follows:

"(4A) The term "cable operator" means any person or group of persons who provide cable service over a cable system and, directly or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

"(4B) The term "cable service" means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service."

(4) Paragraph (6) is amended to read as follows:

"(6) The term "cable television system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is

Section
43-1802

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provided to multiple subscribers within a community. This term does not include a facility:

"(A) That serves only to retransmit the television signals of 1 or more television broadcast stations;

"(B) That serves subscribers without using any public right-of-way;

"(C) Of a common carrier which is subject, in whole or in part, to the provisions of title II of the Communications Act of 1934, approved June 19, 1934 (48 Stat. 1070; 47 U.S.C. § 201 *et seq.*), except that such facility shall be considered a "cable television system" (other than for purposes of the Communications Act of 1934, 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or

"(D) Of any electric utility used solely for operating its electric utility systems."

(5) A new paragraph (11A) is added to read as follows:

"(11A) The term "educational access channel" means a specifically designated noncommercial channel on any cable television system which is reserved for educational use."

(6) Paragraph (12) is amended by inserting the phrase "and Telecommunications" after the phrase "Office of Cable Television".

(7) Paragraph (13) is amended by inserting the phrase "for the cable system as a going concern, but with no value allocated to the franchise itself" after the word "seller"..

(8) Paragraph (16) is amended by inserting the phrase "and authorized" after the word "lawful".

(9) Paragraph (19) is amended to read as follows:

"(19) The term "gross revenues" means all revenue derived directly or indirectly from the operation or use of all or part of a cable television system franchised pursuant to this act by the franchisee, its affiliates, subsidiaries, parents, and any person in which the Franchisee has a financial interest including, but not limited to, revenue from regular subscriber service fees, installation and reconnection fees, leased channel fees, converter rentals, studio rental, production equipment and personnel fees, and advertising revenues. This term shall not include any revenues derived solely from the provision of telecommunications services, as defined by 47 U.S.C. § 153(r)(51)), or any taxes on services furnished by a franchisee herein imposed directly upon any subscriber or user by any governmental unit and collected by a franchisee on behalf of said governmental unit. This term shall include all revenues defined in the franchise agreement."

(10) Paragraph (27) is amended to read as follows:

"(27) The term "Office" means the independent Office of Cable Television and Telecommunications established by section 6."

(11) A new paragraph (27A) is added to read as follows:

"(27A) The term "other programming service" means information that a cable operator makes available to all subscribers generally."

(12) Paragraph (33) is amended by striking the phrase "broadcast programming

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and any ancillary service" and inserting the phrase "cable service" in its place.

(b) Section 3a (D.C. Code § 43-1802.1) is amended as follows:

Section
43-1802.1

(1) Subsections (a) and (b) are amended to read as follows:

"(a) The Council of the District of Columbia may grant, in accordance with and pursuant to the procedures set forth in this act, 1 or more revocable non-exclusive franchises to construct, operate, maintain, and reconstruct a cable television system within the public ways of the District of Columbia, and along easements dedicated for compatible uses pursuant to section 621(a)(2) of the Communications Act of 1934, approved October 30, 1984 (98 Stat. 2786; 47 U.S.C. § 541(a)(2)).

"(b) No person or persons, corporation, whether publicly or privately held, partnership, business venture, association, or institution shall operate a cable television system within the District of Columbia without first obtaining a franchise pursuant to this act. Nothing in this section shall be construed as infringing upon the plenary power of the United States, the authority vested in the District to make use of municipal and educational channels established in a franchise agreement pursuant to this act, or the authority and right vested in the citizens of the District of Columbia to make use of the public access channels established in a franchise agreement pursuant to this act."

(3) Subsection (c) is amended by striking the word "similar".

(4) Subsection (d) is amended to read as follows:

"(d) Any franchise granted pursuant to this act shall be valid for a maximum term not to exceed 15 years from the date the franchise is granted and shall be subject to prior revocation pursuant to procedures established in this act. The Office may recommend, and the Council may grant, a franchise for a term of less than 15 years."

(c) Section 4 (D.C. Code § 43-1803) is amended to read as follows:

Section
43-1803

"Sec. 4. Establishment of the District of Columbia Cable Television Advisory Committee.

"(a) There is established a District of Columbia Cable Television Advisory Committee to assist and advise the Office of Cable Television and Telecommunications regarding the development, regulation, and design of cable television systems in the District of Columbia which will serve the public interest.

"(b) The Advisory Committee shall consist of 13 members selected as follows:

"(1) Two representatives from the Council of the District of Columbia, to be designated by the Council;

"(2) One representative from the Consortium of Universities ("Consortium"), to be designated by the Consortium;

"(3) One representative of the Department of Public Works, to be designated by the Director of the Department of Public Works;

"(4) One representative from the Office of the Assistant City Administrator for Economic Development, to be selected by the Mayor;

"(5) One member of the District of Columbia School Board, to be selected by

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the President of the School Board;

"(6) One registered engineer, with appropriate expertise, to be selected by an appointment process established by the Mayor;

"(7) One representative from the local religious community, to be selected by an appointment process established by the Mayor;

"(8) One senior citizen, residing in the District of Columbia, to be selected by an appointment process established by the Mayor;

"(9) One member of the Board of Directors of the Public Access Corporation, to be designated by the Chairperson of the Board of Directors;

"(10) Two concerned citizens from the District of Columbia, with appropriate technological expertise, to be selected by an appointment process established by the Mayor; and

"(11) One representative from any of the Advisory Neighborhood Commissions in the District of Columbia, to be selected by an appointment process established by the Mayor."

(d) Section 5 (D.C. Code § 43-1804) is amended to read as follows:

**Section
43-1804**

"Sec. 5. Duties of the Advisory Committee.

"(a) The Advisory Committee shall, in all its deliberations and decisions, and in discharging the duties and responsibilities set forth in this section, consider and promote the safety, health, and welfare of the people of the District of Columbia.

"(b) The Advisory Committee shall:

"(1) Advise the Office in the general oversight of cable television operation;

"(2) Assess the cable needs of the community and recommend policy changes;

and

"(3) Meet on a quarterly basis to, among other things, educate Advisory Committee members regarding technology such as fiber optics, interdiction and design, programming trends, community access, and competing technologies.

"(c) The Office shall promulgate all rules and procedures deemed necessary to carry out the purposes of this section, including, but not limited to, rules and procedures relating to the Advisory Committee's reporting requirements, the commission of surveys or studies to be used in ascertaining community needs, and the internal functioning of the Advisory Committee."

(e) Section 6 (D.C. Code § 43-1805) is amended by inserting the phrase "and Telecommunications" after the phrase "Office of Cable Television".

**Section
43-1805**

(f) Section 7 (D.C. Code § 43-1806) is amended as follows:

(1) A new subsection (b-1) is added to read as follows:

**Section
43-1806**

"(b-1) The Office shall receive and review applications for a franchise for a cable television system and shall negotiate cable franchise agreements. The Office shall promulgate rules and procedures to be used for the application process including, but not limited to, guidelines, instructions, an application form, a model proposed franchise agreement, and an application fee."

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(2) A new subsection (d)(12) is added to read as follows:

"(d)(12) Coordinate, manage, and oversee the use of all municipal and educational channels."

(3) Subsection (e) is amended to read as follows:

"(e) The Office may purchase personal property insurance to cover the risk to the District, the District's officers, employees, or authorized agents for loss of or damage to equipment, facilities, other materials, or personal property used by the Office to produce programming for the municipal channels, or used by the Office to perform the Office's authorized functions. The amount of insurance purchased by the Office shall be subject to the approval of the Mayor."

(g) Section 8 (D.C. Code § 43-1807) is amended by inserting the phrase "and Telecommunications" after the phrase "Office of Cable Television".

Section
43-1807

(h) Section 8a(a)(1) (D.C. Code § 43-1807.1(a)(1)) is amended by striking the phrase "section 11(b)" and inserting the phrase "section 7(b-1)" in its place.

Section
43-1807.1

(i) Section 11 (D.C. Code § 43-1810) is amended to read as follows:

"Sec. 11. Submission of applications.

Section
43-1810

"An application and an executive summary of the application for a cable television franchise shall be submitted to the Office. The application shall state facts and information regarding the applicant and the proposed franchise territory, make a complete disclosure of all those persons holding a financial interest in the entity making the application for a franchise, and include a proposed franchise agreement consistent with the model proposed franchise agreement promulgated by the Office pursuant to section 14(a). An application shall also comply with all other requirements or rules established by the Office."

(j) Section 13 (D.C. Code § 43-1812) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) In evaluating applications, the Office may enlist the assistance of qualified technical, financial, and legal consultants."

Section
43-1812

(2) A new subsection (g) is added to read as follows:

"(g) The Office shall evaluate and recommend approval or denial of a cable service franchise to the Council. This process shall involve an initial evaluation of a prospective franchisee's application and proposed franchise agreement within 90 days of their submission to the Office. During the initial evaluation, the Office will determine whether a final franchise agreement should be negotiated with an applicant. Where the Office determines that a final franchise agreement should not be negotiated with the applicant, it will recommend to the Council that a cable service franchise not be awarded to the applicant and shall transmit to the Council, along with its recommendation, the applicant's proposed franchise agreement and application. Where the Office determines that a final franchise agreement should be negotiated with the applicant, it shall enter into formal discussions with the applicant and shall, within a time period not to exceed 90 days, transmit to the Council, along with its recommendation, a copy of the final franchise agreement and the prospective franchisee's application."

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(k) Section 14 (D.C. Code § 43-1813) is amended to read as follows:

**Section
43-1813**

"Sec. 14. Submission of proposed franchise agreement.

"(a) The Office shall develop a model proposed franchise agreement.

"(b) Each applicant shall submit with its application a proposed franchise agreement.

"(c) The proposed franchise agreement shall conform to the rules, requirements, and guidelines established by the Office and shall cover all matters regarding system construction and operation, including, but not limited to, District regulation and authority over the franchise, programming, public, educational, and municipal access, franchise territory, location of facilities and personnel, system design and capacity, area-wide connection, capacity reserved for leased access, reports and records, maintenance and complaints, ownership and control, police powers of the District, franchise fee, financial and insurance requirements, rights reserved to the District, default and remedies, liquidation damages, notices, service rates and services, and all other terms and conditions."

(l) Section 14a (D.C. Code § 43-1813.1) is amended as follows:

**Section
43-1813.1**

(1) Subsection (a) is amended to read as follows:

"(a) The Council may grant, by act, 1 or more franchises for the right to construct and operate a cable television system within the public ways of specified areas of the District of Columbia and, pursuant to section 2 of the Communications Act of 1934, approved October 30, 1984 (98 Stat. 2786; 47 U.S.C. § 541(a)(2)), easements which have been dedicated for compatible uses. A franchise will be granted to an applicant who, in the Council's judgment, will sufficiently serve the public interest, whose construction, technical, and financial plans and arrangements are both feasible and adequate to fulfill the conditions set forth in this act, and who meets any other reasonable conditions, items, or requirements established by the Council. All construction, technical, and financial plans and arrangements and conditions shall be specifically incorporated into a franchise awarded to an applicant. No provisions of this act shall be deemed or construed to require the Council to grant a franchise following receipt of any franchise applications."

(2) Subsection (b) is amended by striking the phrase "within 90 calendar days after" and inserting the phrase "on or before" in its place.

(m) Section 15 (D.C. Code § 43-1814) is amended as follows:

**Section
43-1814**

(1) Subsection (a) is amended to read as follows:

"(a) The District shall have the right to amend a franchise agreement, upon agreement with the franchisee, when necessary to enable the franchisee to take advantage of advancements in the state-of-the-art which will afford an opportunity to more effectively, efficiently, or economically serve the subscribers. A franchise agreement shall include procedures for amending the agreement pursuant to this section."

(2) A new subsection (c) is added to read as follows:

"(c) The Office shall promulgate regulations governing the amendment of a franchise agreement."

(n) Section 16 (D.C. Code § 43-1815) is amended to read as follows:

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"Sec. 16. Franchise revocation procedure.

Section
43-1815

"(a) The Council shall have the right to revoke a franchise pursuant to the revocation provisions contained in a franchise agreement.

"(b) The Office shall promulgate rules and procedures for the revocation of a franchise agreement and include provisions governing revocation in a franchise agreement."

(o) Section 17 (D.C. Code § 43-1816) is amended to read as follows:

Section
43-1816

"Sec. 17. Franchise renewal procedure.

"(a) The renewal of a franchise to operate a cable television system shall comply with applicable federal law.

"(b) A final franchise renewal or denial shall be by act of the Council.

"(c) The Office shall conduct the preliminary assessment that a franchise be renewed or denied. The Office shall promulgate rules and procedures governing the renewal of a franchise agreement.

"(d) Upon a decision by the Council to deny renewal, the Council shall, on the expiration date of the franchise, either authorize the District to purchase the assets of the franchisee's cable television system at its fair market value, or the Council may select a new franchisee pursuant to the franchise application process established in this act, after a full public proceeding, and cause the new franchisee to purchase the assets at fair market value."

(p) Section 18 (D.C. Code § 43-1817) is amended as follows:

Section
43-1817

(1) The section heading is amended to read as follows:

"Sec. 18. Termination of franchise; forced purchase by the District."

(2) Subsection (a) is amended by striking the phrase "suspend for a time certain" and inserting the phrase "accelerate the term of the franchise" and by striking the phrase "fair market value" and inserting the phrase "an equitable price, or the Council may select a new franchisee to purchase the assets of the franchisee's cable television system at a cost not to exceed an equitable price" in its place.

(3) Subsection (c) is amended by striking the phrase "the fair market value" and inserting the phrase "an equitable price" in its place.

(4) A new subsection (d) is added to read as follows:

"(d) Any sale or transfer of a cable television system shall comply with section 627 of the Communications Act of 1934, approved October 30, 1984 (98 Stat. 2793; 47 U.S.C. § 547)."

Section
43-1819

(q) Section 20(a) (D.C. Code § 43-1819(a)) is amended to read as follows:

"(a) In the event the Council elects to authorize the District to purchase the franchisee's cable system and the fair market value, which is the price required if the Council proceeds under section 17, or an equitable price, which is the price required if the Council proceeds under section 18, for the system cannot be agreed upon, the final price shall be determined by an arbitration panel."

(r) Section 21 (D.C. Code § 43-1820) is amended to read as follows:

Section
43-1820

"Sec. 21. Transfer of ownership to other than District.

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"(a) Except for conveyances of real or personal property in the ordinary course of the operation of a cable television system, neither a franchise, nor a franchisee, nor any rights or obligations of a franchisee in a cable television system or pursuant to a franchise agreement, nor a cable television system, nor any assets of a cable television system, nor the persons holding control of the franchisee, franchise, cable television system, or the assets of the cable television system, shall be transferred, nor shall title therein, either legal or equitable, or any right or interest therein, pass to or vest in any person, either by act of the franchisee, by act of any persons holding control of or any interest in the franchisee, the cable television system, the assets of the cable television system, or the franchise, by operation of law, or otherwise, without the prior consent of the Council.

"(b) No person who has an ownership interest exceeding 5% in a franchise, franchisee, cable television system, the assets of a cable television system, the persons holding control of such franchisee, franchise, cable television system, or the assets of a cable television system shall transfer the interest so that the person's ownership interest shall be less than 5% without the prior consent of the Council. No person shall purchase or otherwise acquire an ownership interest exceeding 5% in a franchise, franchisee, cable television system, any assets of a cable television system, the persons holding control of such franchisee, franchise, cable television system, or the assets of a cable television system without the prior consent of the Council.

"(c) No change in control of a franchise, franchisee, cable television system, any assets of a cable television system, the persons holding control of such franchise, franchisee, cable television system, or the assets of a cable television system shall occur by act of the franchisee, by act of any persons holding control of, or any interest in, the franchise, franchisee, cable television system, or the assets of a cable television system, or by operation of law or otherwise without the prior consent of the Council.

"(d) Nothing in this section shall be construed as suggesting that any other event which could result in a change of ownership or control, regardless of the manner in which such ownership or control is evidenced (e.g., stock, bonds, debt instruments, or other indicia of ownership or control), does not require the consent of the Council if such change would in fact result in a change in ownership or control.

"(e) If a transfer is not made according to the procedures set forth in this act and the franchise agreement, the District may take legal or equitable action to set aside, annul, revoke, or cancel:

"(1) A franchise;

"(2) The transfer of a franchise, franchisee, the rights and obligations of a franchisee in a cable television system or pursuant to the franchise agreement, a cable television system, any assets of a cable television system, or the persons holding control of such franchise, franchisee, cable television system, or assets of a cable television system; or

"(3) The transfer of an ownership interest in a franchise, franchisee, the rights and obligations of a franchisee in a cable television system or pursuant to the franchise agreement, a cable television system, any assets of a cable television system or the persons

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holding control of such franchise, franchisee, cable television system, or assets of a cable television system.

"(f) Any sale, transfer, or assignment proposed by a franchisee shall be made by a proposed bill of sale or similar document, a copy of which shall be filed with the Office 90 days prior to any proposed sale, transfer, or assignment.

"(g) The Office shall recommend whether approval by the Council of the proposed sale, transfer, or assignment should be granted. The proposed assignee must comply with all provisions of this act and must comply with any provisions regarding a sale, transfer, or assignment established by the Office or a franchise agreement.

"(h) The consent of the Council to any sale, transfer, or lease shall not constitute a waiver or release of any of the rights of the District under this act and a franchise agreement.

"(i) The term "control", for the purposes of this section, shall mean actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments, or negative control, as the case may be. A rebuttable presumption of the existence of control shall arise from the beneficial ownership, directly or indirectly, by any person, or group of persons acting in concert, of more than 5% of any person. "Control" as used herein may be held simultaneously by more than 1 person or group of persons.

"(j) The term "person", for the purposes of this section, shall mean any natural person or any association, firm, partnership, joint venture, foreign or domestic corporation, organization or other legally recognized entity, whether for profit or not for profit. This term shall not mean the District.

"(k) The term "transfer", for the purposes of this section, shall include, but not be limited to, any transfer, assignment, lease, sale, disposal of, in whole or in part, by voluntary sale, merger, consolidation, or otherwise by forced or involuntary sale, of a franchise, franchisee, any rights or obligations of a franchisee in a cable television system or pursuant to a franchise agreement, cable television system, any assets of a cable television system, or the persons holding control of a franchise, franchisee, cable television system, or the assets of a cable television system."

(s) Section 25(a) (D.C. Code § 43-1824(a)) is amended by striking the phrase "or \$250,000" and inserting the phrase "or the amount established in a franchise agreement," in its place.

Section
43-1824

(t) Section 27 (D.C. Code § 43-1826) is amended to read as follows:

Section
43-1826

"Sec. 27. Rates and service offerings.

"All proposed rates and service offerings for cable service shall be specified in the franchise application. An applicant's rates and service offerings shall be specifically incorporated into the applicant's proposed franchise agreement. Any change in such rates and services shall be reflected in an appendix to the final franchise agreement pursuant to provisions for such action in the final franchise agreement."

(u) Section 27a (D.C. Code § 43-1826.1) is amended as follows:

Section
43-1826.1

(1) Subsection (a) is amended by striking the word "television".

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(2) Subsection (b) is amended by striking the word "Fees" in the 2nd sentence and inserting the phrase "To the extent permissible under applicable law or regulation, fees" in its place.

(3) Subsection (d) is amended by striking the word "The" and inserting the phrase "To the extent permitted under applicable law or regulation, a" in its place and by striking the phrase "or franchisees".

(v) Section 27b (D.C. Code § 43-1826.2) is amended to read as follows:

"Sec. 27b. Rate regulation.

Section
43-1826.2

"(a) Notwithstanding any other District law, the Office:

"(1) Is authorized to regulate cable rates to the maximum extent permitted by law;

"(2) Shall follow the rate regulations adopted by the Federal Communications Commission, pursuant to section 2(b) of the Communications Act of 1934, approved October 30, 1984 (98 Stat. 2788; 47 U.S.C. § 543(b)), in regulating cable rates; and

"(3) Shall ensure a reasonable opportunity for consideration of the views of interested parties.

"(b) The Office shall promulgate rules and procedures governing the regulation of cable rates."

(w) Section 28(b) (D.C. Code § 43-1827(b)) is amended by striking the word "basic" and inserting the word "cable" in its place.

Section
43-1827

(x) Section 30a (D.C. Code § 43-1829.1) is amended as follows:

(1) Subsection (a) is amended to read as follows:

Section
43-1829.1

"(a) Requirements for equipment, facilities, studios and funding in support of public access shall be specified in a franchise agreement."

(2) Subsection (b) is amended as follows:

(A) By striking the phrase "request for proposal" and inserting the phrase "franchise agreement" in its place;

(B) By striking the 2nd sentence; and

(C) By striking the word "communities" and inserting the phrase "persons, groups, organizations, and communities" in its place.

(3) Subsection (c) is amended to read as follows:

"(c) A franchisee shall make equipment and assistance for the production of programming available to public access channel users at its studio. Additional equipment and production assistance shall be made available which will permit access users and a franchisee to produce programming at locations other than the studio in a manner set forth in the franchise agreement. For public access channel users, the franchisee shall provide use of the production facilities and production assistance at an amount set forth in the franchise agreement. The equipment made available under this subsection shall comply with the requirements set forth in the franchise agreement."

(4) Subsection (d) is amended to read as follows:

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"(d)(1) A cable operator shall comply with the leased access provisions under section 2 of the Communications Act of 1934, approved October 30, 1984 (98 Stat. 2782; 47 U.S.C. § 532), and with any leased access provisions in a franchise agreement, and shall designate channel capacity for commercial use by persons unaffiliated with the operator in accordance with the following requirements:

"(A) An operator of any cable system with 36 but not more than 54 activated channels shall designate 10% of such channels which are not otherwise required for use, or whose use is not prohibited by federal law or regulation.

"(B) An operator of any cable system with 55 but not more than 100 activated channels shall designate 15% of such channels which are not otherwise required for use, or whose use is not prohibited by federal law or regulation.

"(C) An operator of any cable system with fewer than 36 activated channels shall not be required to designate channel capacity for commercial use by persons unaffiliated with the operator.

"(2) At least 3/5 of the leased channel capacity which must be designated under paragraph (1) of this subsection shall be reserved for District of Columbia-based organizations and businesses. Pursuant to section 2(i) of the Communications Act of 1934, approved October 30, 1984 (98 Stat. 2782; 47 U.S.C. § 532(i)), 33% of the leased channel capacity which must be designated under paragraph (1) of this subsection shall be reserved for lease to qualified minority programming sources as defined by federal law. The adoption and implementation of the 33% requirement shall not constitute a discriminatory practice under section 41.

"(3) The Office shall promulgate rules to carry out the purposes of this subsection."

(y) Sections 31(a), (b), and (c) (D.C. Code § 43-1830(a), (b), and (c)) are amended to read as follows:

Section
43-1830

"(a) A franchisee shall construct, operate, and maintain the cable television system subject to the supervision of the Office and in full compliance with the regulations, including applicable amendments, of the Federal Communications Commission and all other applicable federal or District laws and regulations, including the Electrical Code approved pursuant to the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; 12 DCMR article 18). The cable television system shall be subject to inspection by the Office.

"(b) A franchisee shall maintain an office within the District of Columbia which shall be open and accessible to the public with adequate telephone service during all usual business hours, including facilities for 24-hour recording of subscriber complaints.

"(c) A franchisee shall exercise its best efforts to design, construct, operate, and maintain the system at all times so that signals carried are delivered to subscribers without material degradation in quality."

(z) Section 33 (D.C. Code § 43-1832) is amended to read as follows:

"Sec. 33. Customer service standards.

Section
43-1832

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"A franchisee shall comply with all applicable federal customer service standards and with all customer service standards contained in a franchise agreement. The Office shall promulgate rules and standards to carry out the purposes of this section."

(aa) Section 34(a) (D.C. Code § 43-1833(a)) is amended by striking the word "Transportation" and inserting the phrase "Public Works" in its place. Section
43-1833

(bb) Section 35 (D.C. Code § 43-1834) is amended as follows: Section
43-1834

(1) Subsection (b) is amended by striking the phrase "the franchisee or franchisees" and inserting the phrase "a franchisee" in its place.

(2) Subsection (c) is amended to read as follows:

"(c) A franchisee shall complete construction of the cable system in the franchise territory and offer and deliver cable service in full accordance with this act and the franchise granted hereunder. The franchise agreement shall include a construction schedule by which a cable operator shall offer and deliver cable service within the franchise territory."

(cc) Section 37(a) (D.C. Code § 43-1836(a)) is amended to read as follows:

"(a) A franchisee shall have no recourse against the District for any loss, expense, or damage resulting from the terms and conditions of this act or the franchise agreement or because of the District's failure to have the authority to grant the franchise." Section
43-1836

(dd) Section 40(3) (D.C. Code § 43-1839(3)) is amended by inserting the phrase "terminate or" after the phrase "authority to". Section
43-1839

(ee) Section 42(c) (D.C. Code § 43-1841(c)) is amended by striking the phrase "Design Commission" and inserting the word "Office" in its place. Section
43-1841

(ff) Section 45 (D.C. Code § 43-1844) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "a cable television service" and inserting the phrase "a cable service" in its place. Section
43-1844

(2) Subsection (b) is amended by striking the phrase "a cable television service" and inserting the phrase "a cable service" in its place.

(gg) Section 46 (D.C. Code § 43-1845) is amended as follows: Section
43-1845

(1) Subsection (c) is amended by striking the last sentence.

(2) A new subsection (h) is added to read as follows:

"(h) This section shall be administered in accordance with, and a franchisee shall comply with, section 2 of the Communications Act of 1934, approved October 30, 1984 (98 Stat. 2794; 47 U.S.C. § 551)."

(hh) Section 47 (D.C. Code § 43-1846) is amended to read as follows: Section
43-1846

"Sec. 47. Costs.

"A franchisee shall assume all franchising costs, which are payable upon the franchisee's filing of acceptance as described herein."

(ii) Section 51 (D.C. Code § 43-1849) is amended by adding new subsections (d) and (e) to read as follows: Section
43-1849

"(d) Civil fines, penalties, and fees may be imposed as alternative sanctions for violations of section 45a, or any rules or regulations promulgated under this act."

ENROLLED ORIGINAL

"(e) The Office shall issue rules and regulations to carry out the purposes of this section."

Sec. 3. Conforming amendments.

The Cable Television Communications Act of 1981, effective August 21, 1982 (D.C. Law 4-142; D.C. Code § 43-1801 *et seq.*), is amended as follows:

- (a) Sections 3(9), (31), and (32) are repealed.
- (b) Section 8a(a)(5) is repealed.
- (c) Section 10 is repealed.
- (d) Sections 13(a), (d), (e), and (f) are repealed.
- (e) Section 27a(c) is repealed.
- (f) Section 32 is repealed.

Sections
43-1802,
43-1807.1,
43-1809,

43-1812,

43-1826.1,
43-1831

Sec. 4. Fiscal impact statement.

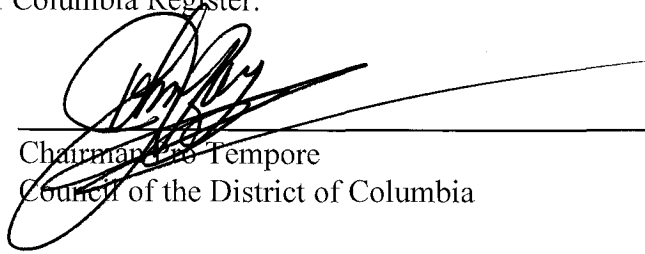
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 5. Effective date.

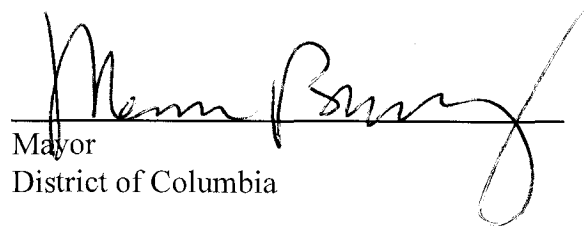
This act shall take effect following approval by the Mayor (or in event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code §47-392.3(a)), and a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Self-Governmental Reorganization

ENROLLED ORIGINAL

Act, approved December 24, 1973 (87 Stat. 813; D.C. Code §1-233(c)(1)), and publication in the District of Columbia Register.



Chairperson Tempore
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: August 6, 1996



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

B11-173

Docket No. _____

[] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE

ADOPTED FIRST READING, 7-3-96

[X] VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED, SMITH RECUSED FROM VOTING
EVANS, LIGHTFOOT, MASON AND THOMAS

ABSENT _____

[] ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

July 26, 1996
Date

[] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE

ADOPTED FINAL READING, 7-17-96

[X] VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED, SMITH RECUSED FROM VOTING
LIGHTFOOT VOTED NO
BRAZIL, CHAVOUS, CROPP AND THOMAS

ABSENT _____

[] ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X-indicates no

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

July 26, 1996
Date

[] ITEM ON CONSENT CALENDAR

[] ACTION & DATE

[] VOICE VOTE
RECORDED VOTE ON REQUEST

ABSENT _____

[] ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date