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September 25, 2023

By Email Only

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Re: Opposition to HB 4965

Dear: Chairman Carter, Committee Members and Sponsor Andrews,

September 25, 2023

Page 2

Please accept this correspondence and place it into the record of this Committee's hearing on Tuesday September 26, as our opposition to HB 4965.

We write on behalf of PROTEC <https://www.protec-mi.org/> a consortium of over 100 Michigan Local Community Governments which focus upon interactions between various industries and our tax payer supported local Public Rights of Way (PROW). We also write on behalf of MICMA, an association of Local Community Governments dedicated to Public, Education and Government Access Channels – One of if not the last bastion of true local community television programming.

HB 4965 seeks to allow one class of video providers to avoid rent payments for use of local community PROW, leaving taxpayers to pick up their share. It would disrupt the level playing field currently existing as between all Video Service Providers, by picking “Streaming” and “Satellite” Video Service providers as winners, granting them special treatment and, immunity from paying rent for use of local PROW, which the rest of the industry does pay.

Specifically, the Bill seeks to amend **2006 PA 480; MCL 484.3301 et seq, the Uniform Video Services Local Franchise Act**, to exclude “streaming” and “satellite” from the definition of video service and thereby thwart their obligation to pay rent for use of the PROW and share the cost of supporting that critical local community asset. PA 480's 10 pages of fine print were carefully crafted over the course of more than a year, and specifically written to capture PROW rents from all video service providers who utilize any “facilities located at least in part in the public right of way without regard to the delivery technology, including internet protocol technology”. This very specific language was agreed to in order to maintain a level playing field between all such providers **and** to assure that our PROW would continue to be supported by all those benefitting from its use. The authors of HB 4965 seek to disrupt that carefully balanced plan by allowing the “Netflix” steamers and satellites to shirk their responsibility to local communities whose taxpayers are otherwise left to underwrite the total cost of our PROW.

This Bill would create the ultimate unlevel playing field and, selects one small group – streamers - as the winners in a wide and diverse video industry, the rest of whom, along with local communities, end up losers.

And too, the Bill would also likely defund and end the local community television programming known as PEG. **Public, Education and Government Access: THE Last bastion of Truly Local Television Programming:**

As part of the traditional cable regulatory scheme set up decades ago at the federal level and modified in 2006 by state law, Video Service Providers are obligated as part of their community obligations to provide a certain level of local video programming. That comes to all of us in the form of PEG channels, broadcasting local public, education and government programming to the community served by those providers.

September 25, 2023

Page 3

The value of this service grows daily as newspapers in communities continue to close and more and more communities becomes "news deserts". The local PEG stations are helping fill the void by providing local news services about cities, towns, neighborhoods including City Council meetings, School event, Religious and Cultural events and, local and state elections, Etc. PEG is increasingly showing itself to be a solutions provider when it comes to community information and news about where we live. The loss of this revenue would force many of these to close or further restrict the availability of community news services. WKTV for instance, operates the WKTV Journal (wktvjournal.org) which is one of the very few remaining hyper local news services in the metro Grand Rapids region.

Clarifications and Notes:

And to be clear, both streamers and satellite DO utilize PROW **"at least in part"**.

And too, there is nothing here to suggest any PROW support avoidance savings by the streamers will be passed onto their customers, your constituents, our taxpayers.

And too, if passed into law, the Bill may set up a discrimination claim by other video providers arguing they too should not have to pay their fair share of PROW support, which if that should succeed, risks leaving your constituent taxpayers the entire cost of maintaining the PROW and the current local funding under PA 480 of approximately \$100 Million statewide - annually.

And too, And Finally, this is not the 1st time we have seen this attempt at tilting the table in their favor. Just one year ago, some may recall HB 6449 was run by the streamers and satellite folks for a very short time. After we explained these same points to the sponsor, the Bill was never heard from again. Until now.

We ask this Committee to reject this renewed effort just as occurred with HB 6449.

On Behalf of PROTEC and MICMA

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MJW: