



CITY OF LOS ANGELES

INFORMATION TECHNOLOGY AGENCY

EXECUTIVE SUMMARY

FINAL

DECEMBER 24, 2003

EXECUTIVE SUMMARY OF CABLE-RELATED NEEDS AND INTERESTS OF THE CITY OF LOS ANGELES

EXECUTIVE SUMMARY

Based on analysis performed to date, the Information Technology Agency (“ITA”) has summarized key findings of its needs and interest ascertainment activities as outlined below. These findings are based upon a series of public hearings, workshops, surveys, studies, franchising in other communities, and general trends in the cable industry. Additionally, ITA is reviewing each cable operator’s past performance and is in the process of completing its past performance review. A full report on the findings of the compliance reviews will be provided upon completion.

The findings are organized into four sections: Consumer Concerns, General System Design, Public, Education and Government (“PEG”) Use of the System, Institutional Network, and Other Key Findings. In summary, the findings show that a need and interest exist for:

- A flexible, future proof cable system capable of delivering advanced services to all residents, businesses and government facilities;
- A well designed, flexible and accessible PEG system, capable of delivering advanced services to specific communities or neighborhoods and the City at large;
- High quality, timely and easily accessible customer service;
- A competitive environment that benefits consumers;
- A franchise that maximizes franchise compliance and revenue collection for the use of public rights-of-way, while streamlining franchise administration and monitoring; and
- Low rates.

Background

Five incumbent cable operators currently provide cable service in the City of Los Angeles. In 2002, the City consummated an agreement with a cable overbuilder, Altrio, to begin providing cable service in the last quarter of 2004. These cable service providers or franchisees serve 14 distinct geographic franchise areas. Four incumbent providers, Adelphia, Comcast, Cox and Time Warner, have asked the City to issue renewal franchise agreements.

The Federal Cable Act prescribes a renewal process ("formal renewal process") that must be followed if a cable operator and a franchising authority are unable to successfully negotiate a cable television renewal agreement through an informal or negotiated process. Much like a trial proceeding, the formal renewal process allows the cable operator and the franchising authority an opportunity to present evidence to support their renewal positions. Franchising authorities often prepare for the formal renewal process concurrently while engaging in informal negotiations to ensure that the franchising authority is ready to proceed formally in the event that informal negotiations are not successful. To fully protect the cable related interests of Los Angeles residents, the City Council instructed the ITA to prepare for the formal renewal process (See Council Motion 99-2380).

As the first step in the formal renewal process, federal law obligates the City "to commence a proceeding which affords the public in the franchise area appropriate notice and participation for the purpose of (A) identifying the future cable-related community needs and interests, and (B) reviewing the performance of the cable operator under the franchise during the then current franchise term." To that end, ITA held a series of public hearings and workshops and conducted a survey to identify future cable-related needs and interests. The City also commissioned studies, reviewed other relevant City studies, examined the results of franchising in other communities, and reviewed general trends in the cable industry. Additionally, information collected as a result of the City's regulation was used as a valuable source to determine the interests of the subscribers.

ITA is reviewing each cable operator's past performance and is in the process of completing its past performance review. However, it should be noted that the reviews have been hampered by the failure of the operators to respond timely and completely to requests for information. A full report on the findings of the compliance reviews will be provided upon completion.

Summary of Preliminary Conclusions

Based on the analysis performed to date, ITA can summarize key findings of its needs and interest ascertainment, and can also report that several cable operators are not in compliance with applicable law.

The Following Cable Related Needs and Interests Have Been Identified:

I. Consumer Concerns

- *Rates should be regulated to the fullest extent permitted by Federal law. Los Angeles consumers should be guaranteed that they are paying the lowest rates possible for regulated cable services. Accordingly, City regulators must review every regulated rate change proposed by the City's cable service operators and exercise the City's authority to order rate refunds and rate roll backs when appropriate.*
- *Competitive cable services should be encouraged. The City should consider policies that support cable system overbuilding, municipal ownership, overlapping franchise boundaries, shorter franchise terms and other pro-competitive measures that may entice competitive cable service providers to apply for cable franchise agreements in Los Angeles.*
- *Cable operators should provide the highest levels of customer service consistent with the needs of the citizens of the City of Los Angeles. The City should revise the City's Customer Service Standards adopted in 1994. The revisions should reflect current cable services and technology in use by the cable operators. The consumer should be protected with modern, clear, comprehensive and enforceable rules and regulations that rely on unambiguous and specific quantitative measurements of cable operator customer service conduct.*

II. System Design – Generally

- *The City should be served by state-of-the art cable systems with substantially greater capacity, reliability and flexibility than those now in place, in order to ensure that operators can respond to changes in cable communications expected during a new franchise term. Among other things, systems should be designed and upgraded so that they can improve their performance without substantial additional construction. The systems should be capable of (a) delivering a variety of traditional cable*

television services; (b) providing a variety of advanced cable services (such as video on demand, high definition services and high-bandwidth upstream interactive services) simultaneously to multiple subscribers; and, (c) supporting simultaneous subscriber use of the systems for upstream and downstream purposes such as secure telecommuting. Finally, system design should ensure that the ability of cable subscribers to obtain and utilize a full range of cable services, including advanced cable services, is not adversely affected should operators provide additional services. All parts of each system, including subscriber drops, which in many cases today are not able to support adequate delivery of current services, should be upgraded.

- *All parts of all cable systems, including drops, should be brought into compliance with the current versions of applicable codes.*
- *All systems should be configured so that each system is immediately capable of delivering all current one and two-way cable-related services and, without substantial additional construction, provide substantial additional up and downstream bandwidth to and from each subscriber, to support true broadband applications. This contrasts to current cable "broadband," which has extremely limited capacity to carry information from each subscriber and significant transmission speed limitations when multiple subscribers attempt to send signals upstream.*
- *The systems should be designed so they are sufficiently flexible to respond to increases and changes in consumer demand over the franchise term.*
- *The systems should include equipment and facilities typical of well designed, modern cable systems, and the equipment and facilities required to maximize consumer choices.*
- *The systems should keep pace with technological developments throughout the franchise term.*
- *The cable systems should provide service to residential and non-residential locations throughout the City.*
- *The cable systems should be interconnected to other communications networks inside and outside the City so that at least PEG signals and institutional network signals (discussed below) can flow back and forth across the multiple cable systems.*
- *The systems should include useable emergency alert capabilities that allow the City to remotely and securely override the audio and video*

portion of all channels in the event of an emergency. This emergency alert system should permit the City to send out a local emergency alert throughout the City, or to specific geographical areas of the City, and should also function effectively as part of a regional, state, and national emergency alert system.

- *The existing systems should be rebuilt.* The existing systems, including the systems as rebuilt by the cable operators, do not meet the needs and interests outlined above.
- *Any system rebuild should be completed promptly and pursuant to a rational plan that minimizes disruption to the City and subscribers.*
- *Work should be performed promptly and expertly by competent, well-trained personnel, subject to labor policies similar to those that the City would apply to contracts for work on its own behalf.*

III. *Public, Education, and Government Use (PEG) of the System.*

The Cable Act permits local franchising authorities to require cable operators to set aside channel capacity for public, educational and government purposes, and to require the operator to provide facilities and equipment to support PEG use. PEG channels can provide members of the community with the opportunity to act as creators and not just consumers of information. PEG facilities can provide community members and groups that traditionally have not had adequate access to commercial mass media the ability to take full advantage of modern communications technology. The City's Teamwork LA initiative, for example, could benefit greatly from community-based studio and programming facilities associated with each of the seven recommended City service areas.

The Needs Assessment Revealed the Following Needs and Interests:

- *A PEG system that can meet the needs of the community at large as well as its neighborhoods should be established and maintained.*
- *PEG should be coordinated so that it enhances the City's neighborhood service initiatives.*
- *Adequate support for PEG should be provided, in addition to, and not in lieu of, any franchise fee or tax payments.*
- *PEG channels, facilities, equipment and support should meet the community's current and future needs and interests.* Current PEG channels, facilities, equipment and support are inadequate to meet the community's current or future, cable-related needs and interests. Among

other things, the cable companies, who are generally responsible for public access operations, have been unable or unwilling to provide the monetary or operational support, which is required for successful access operations. Equipment is generally old and outdated, and many facilities are too small to support access in a community of Los Angeles' size or are inaccessible. While the Public Access operation may have served a few groups well, on the whole, the Public Access operation in this community has not been managed well to benefit the vast majority of the community.

- *PEG channels should be available to all subscribers throughout the City regardless of the tier of service to which they subscribe.*
- *Additional channel capacity should be available to deliver PEG programming to subscribers immediately as PEG use grows in Los Angeles.*
- *PEG channels should be available for use to provide information in a variety of formats (video information, data, multimedia) for any purpose not prohibited by applicable law.*
- *PEG users should be able to take advantage of the technical capabilities of the system as they develop, including, for example, capabilities for interactive services and services on demand.*
- *Transmission capacity for PEG should be provided so that it can be used for digital programming if the operator provides commercial programming in a digital format.*
- *The system should be capable of directing signals to particular classes of PEG users, such as firefighters in training.*
- *The system should be configured to deliver PEG channels to discrete interest groups. This delivery should be Citywide, permit simultaneous transmission of different programming to different parts of the City and should permit programming to be originated and cablecast from a variety of locations throughout the City. For example, PEG programming of particular interest to one neighborhood can be sent to that area, while different programming is delivered to another neighborhood served by the same cable system.*
- *Well designed, properly sized and easily accessible "community media centers" throughout the City of Los Angeles should be established. These centers can be used for PEG purposes, associated with the regional neighborhood service areas, and connected to a central facility that can*

- coordinate the playback of programs throughout the City and provide high-quality signals placed on appropriate channels on the subscriber network.
- *Government, public and educational access facilities appropriately connected together to permit effective origination and dissemination of local programming, should be established and maintained. These facilities must be tied to the cable companies' headends so that signals can be properly scheduled, controlled, monitored and directed to the appropriate channels, and delivered to subscribers without degradation in signal quality.*
 - *State of the Art programming and production equipment should be available for public, educational and government access use. This equipment should be properly maintained, replaced, and upgraded as needed, during the franchise term.*
 - *PEG users should be provided with support necessary to effectively use PEG channels, facilities, and equipment throughout the term of any new franchise agreements. This support includes (a) outreach (ensuring that users are familiar with PEG opportunities); (b) training; (c) user-friendly facility administration and operation; and (d) promotion.*
 - *PEG channels should be carried on the same "channel location" on systems throughout the City.*
 - *PEG facilities, equipment, channels and other support should be available at no cost to users.*
 - *Access should be managed by an entity designated by the City, subject to rules that encourage access use.*
 - *A short transition period from the current approach of access management to an approach that will meet the needs and interests described above should be allowed.*
 - *The system should be available in schools, libraries, and other public buildings at no cost, so those entities can receive educational and governmental cable-related services provided over the cable system.*

IV. Institutional Network.

In many communities, operators construct "institutional networks," or "I-Nets." I-Nets are communications networks designed primarily to serve users other than residential subscribers – such as businesses, government and educational institutions. Federal law permits the City to require an operator to construct an

institutional network. An institutional network may be used to deliver a variety of advanced services to small businesses in Los Angeles. In addition, the City can require an operator to dedicate capacity on an institutional network for government and educational use.

The Needs Assessment Revealed the Following Needs and Interests:

- *An I-Net capable of providing advanced services to non-residential subscribers including the City and schools should be constructed.*
- *Capacity on the operators' networks should be provided for educational and government use, and to link City facilities and other public buildings (including schools, libraries, public safety facilities and others) for a variety of internal City and school, two-way video, voice and high-speed data communications. This capacity will improve educational services in the community, and allow government to provide information to the public and serve the community more effectively. It will also improve public safety. For example, police and fire personnel may be trained remotely, thereby saving travel time and travel expenses. The institutional network will permit the City to cut expenses, without reducing services. Thus, the capacity on the institutional network should be provided in such a way as to minimize the costs to the end user, and to maximize end users' ability to use the equipment that is now in place. The capacity should also be provided so the I-Net can readily expand to meet future increases in City needs, both in the capacity of the network and in the number of sites served by the network.*
- *Fire stations and other public safety entities must be provided cable modem service as an interim broadband network access solution until I-Net facilities are in place and operational.*

V. Other Key Findings

The Cable Act requires an operator who desires a renewal franchise to submit a renewal proposal that will reasonably satisfy the cable-related needs interests of the community, in light of the cost of meeting those needs and interests. That does not mean, however, that the City must prove that every provision included in the RFRP or in cable regulations (such as the City's customer service standards) are justified by the needs assessment. A number of areas exist where the City may use its regulatory and police powers to establish requirements unilaterally. Customer service standards are a good example. The City proposes to include a number of provisions designed to protect the public and the City in each franchise, and in general regulations that would apply to all operators. The City is currently reviewing language that would achieve these goals.

However, while it is the City's view that it can establish certain regulations and requirements without making a showing that the regulations and requirements are justified by cable-related needs and interests, in fact the needs assessment revealed the need to establish some franchise requirements.

The Needs Assessment Revealed the Following Needs and Interests:

- *The franchise term should be less than 15 years.* A long franchise term does not serve the public interest since, among other reasons, the system may become outdated, PEG and I-Net requirements may need to be revisited, and changes in law could require that some obligations be changed. The length of the franchise term will depend in part on the terms and conditions to which each operator agrees, and whether the operator meets compliance standards.
- *The City should obtain full and fair rent for use of the public rights of way.* A minimum 5% franchise fee should continue to be charged, and to the extent permitted by state and federal law, that fee should reach all revenues derived from the system's operations. As the 5% fee limit is a federally imposed "rent cap," the City should also have the right to increase the fee and to require additional compensation if the law changes. Also, the City should have the right to charge additional fees and obtain additional compensation to the extent it is not prohibited from doing so by applicable law.
- *Franchise fees and other monetary debts such as liquidated damages, permit fees, etc., should be paid in a timely manner and in full.*
- *Flexible, effective customer service standards should be established that respond to changes in the industry and its practices.* Effective provisions are also needed to ensure that operators are held fully accountable for violations of the standards.
- *The City should incur no cost as a result of the use of the rights-of-way by the operators.* The cost of regulation should be recovered to the extent possible from the operators.
- *Each operator should use the rights of way in a manner that minimizes the risk of damage and undue interference with the beneficial use and enjoyment of public and private property.* Each cable operator's use is secondary, and it should be made clear that no property rights, or any other implied rights, are being granted. Right-of-way use should be

- subject to conditions that ensure that City policy (e.g. under grounding of facilities) can be satisfied without undue public burden.
- *Full service customer service centers should be located in each Los Angeles franchise area. This approach ensures that subscribers are served by trained, local personnel familiar with the Los Angeles systems and the requirements that apply here. It also meets the City's goal to improve the quality of life in each neighborhood and to maintain jobs in Los Angeles.*
 - *Each full service customer service center should be easily accessible to all persons in the community. Each full service customer service center shall be located no further than two blocks from public transportation.*
 - *Operators should not unlawfully discriminate against potential subscribers, employees, or subcontractors.*
 - *Rates should be subject to regulation to the extent permitted by law.*
 - *The City should have effective tools to monitor, enforce, and ensure full compliance with franchise and regulatory requirements.*
 - *Operators should not benefit financially or otherwise from franchise and regulatory noncompliance.*
 - *Competition should be promoted in the provision of cable service and unfair competition or anti-competitive conduct should be prevented in all aspects of cable service, whether in dealings with subscribers, bundling of services, contracts with multiple dwelling units, or contracts with programmers.*
 - *Internet Service Providers should have "open access" to the cable systems. The City recognizes that there may be limits on its ability to require provisions for "open access", but efforts to negotiate open access should be pursued.*
 - *The City should have the right to review and approve any transfer of the cable system or the franchise, whether resulting from a sale of assets, a sale of stock, merger, or any other device.*
 - *Neither the City nor the public should be adversely affected, or face additional risks as a result of any transfer of a cable system.*

- *Cable television transfers should not occur without correcting prior franchise violations, and in ensuring that any transferee has financial, legal, and technical qualifications to perform as required.*
- *The Operators should comply with all franchise obligations and each franchisee should be subject to the ongoing exercise of the City's police, regulatory and other powers, with the ability to respond to changing circumstances over time.*
- *Specific provisions should be included in all franchise agreements that will ensure that cable operators accommodate people with disabilities in the provision of cable service.*
- *Specific provisions for use of air time for public service announcements should be included in all franchise agreements.*