



City of Cambridge

49.

IN CITY COUNCIL

July 29, 1996

COUNCILLOR DUEHAY
VICE MAYOR BORN
COUNCILLOR DAVIS
COUNCILLOR GALLUCCIO
MAYOR RUSSELL
COUNCILLOR SULLIVAN
COUNCILLOR TOOMEY

WHEREAS: The Federal Communications Commission (FCC) in its initial implementation of the Telecommunications Act of 1996 has moved aggressively to preempt traditional and legitimate state and local government police power authorities; and

WHEREAS: These actions have occurred in final rules issued in March, 1996 regarding the regulations of satellite earth stations and again in June, 1996 regarding the regulation of Open Video Systems; and

WHEREAS: The rule on satellite earth stations preempts and renders unenforceable any and all state and local health, safety, or aesthetic regulations that may affect the installation and location of these devices, an action that exceeds the intent and provisions of the Telecommunications Act of 1996 or other existing law; and

WHEREAS: The rule is totally unprecedented in its intrusiveness into affairs properly reserved for state and local governments and responds to unjustified industry claims that the exercise of these legitimate local and state authorities bar or effectively prohibit these devices; and

WHEREAS: This rule attempts to use the federal "commerce clause" to reach into the domain of traditional and appropriate local government powers without clear congressional intent, substantial federal interest, or appreciable adverse impacts on interstate commerce; and

WHEREAS: The rule on open video systems preempts state and local authorities to franchise or control access to public property for commercial use by private companies and further subordinates local right-of-way controls, both management and compensation, to federal requirements and oversight, another action that exceeds the intent and provisions of the Telecommunications Act of 1996 or other existing law; and

- WHEREAS: The open video system rule is also totally unprecedented in its intrusiveness into affairs properly reserved for state and local governments and responds to unjustified industry claims that the exercise of these legitimate local and state authorities bar or effectively prohibit the establishment of these systems; and
- WHEREAS: The rule on open video systems extends the federal "commerce clause" into the domain of traditional and appropriate local government powers and intrudes on the rights of local government under the 5th Amendment to the Constitution of the United States; and
- WHEREAS: Many individual cities and countries have joined with the National League of Cities, the United States Conference of Mayors, and the National Association of Counties in filing comments with the Federal Communication Commission to state the above complaints; and
- WHEREAS: The comments of local government were largely rejected by the Federal Communications Commission causing the above entities to file petitions for reconsideration; and
- WHEREAS: The Federal Communication Commission is now proposing additional preemption of other local powers and further intrusion into local community control and compensation for use of those rights-of-way; now therefore be it
- RESOLVED: That the City of Cambridge join with individual cities and other local government interests in calling upon the Federal Communications Commission to restore normal and traditional federal relations with respect to local powers and local property rights and to withdraw or to substantially amend the agency's recent rules on satellite earth stations and open video systems; and be it further
- RESOLVED: That the Cambridge City Council request and authorize the City Manager to continue to seek such results from the Federal Communications Commission and to urge Congressional intervention or action to secure these changes; and be it further
- RESOLVED: That the City Clerk send copies of this resolution to all members of the Massachusetts Congressional delegation; and be it further

RESOLVED: That the City Clerk send copies of this resolution to Cambridge's State House delegation conveying the request that the State Legislature express its opinion to Governor Weld on this critical issue; and be it further

RESOLVED: That the City Clerk send a copy of this resolution to Governor Weld asking his assistance in protecting the vital interests of state and local government regarding these unfortunate and damaging decisions by the Federal Communications Commission; and be it further

RESOLVED: That the City Clerk send a copy of this resolution to the Massachusetts Municipal Association asking them to notify mayors, city and town councils and aldermen, selectmen, town and city managers and administrators throughout the Commonwealth of Massachusetts of these impending threats to local control and asking their help in reversing these FCC decisions.

In City Council July 29, 1996

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-


D. Margaret Drury
City Clerk

Duehay

**FEDERAL COMMUNICATIONS COMMISSION AND PREEMPTION OF
LOCAL AND STATE AUTHORITIES**

Whereas, the Federal Communications Commission (FCC) in its initial implementation of the Telecommunications Act of 1996 has moved aggressively to preempt traditional and legitimate state and local government police power authorities; and

Whereas, these actions have occurred in final rules issued in March, 1996 regarding the regulation of satellite earth stations and again in June, 1996 regarding the regulation of Open Video Systems; and

Whereas, the rule on satellite earth stations preempts and renders unenforceable any and all state and local health, safety, or aesthetic regulations that may affect the installation and location of these devices, an action that exceeds the intent and provisions of the Telecommunications Act of 1996 or other existing law; and

Whereas, the rule is totally unprecedented in its intrusiveness into affairs properly reserved for state and local governments and responds to unjustified industry claims that the exercise of these legitimate local and state authorities bar or effectively prohibit these devices; and

Whereas, this rule attempts to use the federal "commerce clause" to reach into the domain of traditional and appropriate local government powers without clear congressional intent, substantial federal interest, or appreciable adverse impacts on interstate commerce; and

Whereas, the rule on open video systems preempts state and local authorities to franchise or control access to public property for commercial use by private companies and further subordinates local right-of-way controls, both management and compensation, to federal requirements and oversight, another action that exceeds the intent and provisions of the Telecommunications Act of 1996 or other existing law; and

Whereas, the open video system rule is also totally unprecedented in its intrusiveness into affairs properly reserved for state and local governments and responds to unjustified industry claims that the exercise of these legitimate local and state authorities bar or effectively prohibit the establishment of these systems; and

Whereas, the rule on open video systems extends the federal "commerce clause" into the domain of traditional and appropriate local government powers and intrudes on the rights

of local government under the 5th Amendment to the Constitution of the United States; and

Whereas, many individual cities and counties have joined with the National League of Cities, the United States Conference of Mayors, and the National Association of Counties in filing comments with the Federal Communications Commission to state the above complaints; and,

Whereas, the comments of local government were largely rejected by the Federal Communications Commission causing the above entities to file petitions for reconsideration;

Whereas, the Federal Communications Commission is now proposing additional preemption of other local powers and further intrusion into local community control and compensation for use of those rights-of-way,

Now, Therefore, Be It Resolved that the City of Cambridge join with individual cities and other local government interests in calling upon the Federal Communications Commission to restore normal and traditional federal relations with respect to local powers and local property rights and to withdraw or to substantially amend the agency's recent rules on satellite earth stations and open video systems;

Resolved, that the Cambridge City Council request and authorize the City Manager to continue to seek such results from the Federal Communications Commission and to urge Congressional intervention or action to secure these changes;

Resolved that the City Clerk send copies of this resolution to all members of the Massachusetts Congressional delegation;

Resolved that the City Clerk send copies of this resolution to Cambridge's State House delegation conveying the request that the State Legislature express its opinion to Governor Weld on this critical issue;

Resolved that the City Clerk send a copy of this resolution to Governor Weld asking his assistance in protecting the vital interests of state and local government regarding these unfortunate and damaging decisions by the Federal Communications Commission;

Resolved that the City Clerk send a copy of this resolution to the Massachusetts Municipal Association asking them to notify Mayors, city and town councils and aldermen, selectmen, town and city managers and administrators throughout the Commonwealth of Massachusetts of these impending threats to local control and asking their help in reversing these FCC decisions.

RESOLVED: That the City Clerk send copies of this resolution to Cambridge's State House delegation conveying the request that the State Legislature express its opinion to Governor Weld on this critical issue; and be it further

RESOLVED: That the City Clerk send a copy of this resolution to Governor Weld asking his assistance in protecting the vital interests of state and local government regarding these unfortunate and damaging decisions by the Federal Communications Commission; and be it further

RESOLVED: That the City Clerk send a copy of this resolution to the Massachusetts Municipal Association asking them to notify mayors, city and town councils and aldermen, selectmen, town and city managers and administrators throughout the Commonwealth of Massachusetts of these impending threats to local control and asking their help in reversing these FCC decisions.

WHEREAS: The open video system rule is also totally unprecedented in its intrusiveness into affairs properly reserved for state and local governments and responds to unjustified industry claims that the exercise of these legitimate local and state authorities bar or effectively prohibit the establishment of these systems; and

WHEREAS: The rule on open video systems extends the federal "commerce clause" into the domain of traditional and appropriate local government powers and intrudes on the rights of local government under the 5th Amendment to the Constitution of the United States; and

WHEREAS: Many individual cities and countries have joined with the National League of Cities, the United States Conference of Mayors, and the National Association of Counties in filing comments with the Federal Communication Commission to state the above complaints; and

WHEREAS: The comments of local government were largely rejected by the Federal Communications Commission causing the above entities to file petitions for reconsideration; and

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RESOLVED: That the City of Cambridge join with individual cities and other local government interests in calling upon the Federal Communications Commission to restore normal and traditional federal relations with respect to local powers and local property rights and to withdraw or to substantially amend the agency's recent rules on satellite earth stations and open video systems; and be it further

RESOLVED: That the Cambridge City Council request and authorize the City Manager to continue to seek such results from the Federal Communications Commission and to urge Congressional intervention or action to secure these changes; and be it further

RESOLVED: That the City Clerk send copies of this resolution to all members of the Massachusetts Congressional delegation; and be it further



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49.

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July 29, 1996

COUNCILLOR DUEHAY

- WHEREAS:** The Federal Communications Commission (FCC) in its initial implementation of the Telecommunications Act of 1996 has moved aggressively to preempt traditional and legitimate state and local government police power authorities; and
- WHEREAS:** These actions have occurred in final rules issued in March, 1996 regarding the regulations of satellite earth stations and again in June, 1996 regarding the regulation of Open Video Systems; and
- WHEREAS:** The rule on satellite earth stations preempts and renders unenforceable any and all state and local health, safety, or aesthetic regulations that may affect the installation and location of these devices, an action that exceeds the intent and provisions of the Telecommunications Act of 1996 or other existing law; and
- WHEREAS:** The rule is totally unprecedented in its intrusiveness into affairs properly reserved for state and local governments and responds to unjustified industry claims that the exercise of these legitimate local and state authorities bar or effectively prohibit these devices; and
- WHEREAS:** This rule attempts to use the federal "commerce clause" to reach into the domain of traditional and appropriate local government powers without clear congressional intent, substantial federal interest, or appreciable adverse impacts on interstate commerce; and
- WHEREAS:** The rule on open video systems preempts state and local authorities to franchise or control access to public property for commercial use by private companies and further subordinates local right-of-way controls, both management and compensation, to federal requirements and oversight, another action that exceeds the intent and provisions of the Telecommunications Act of 1996 or other existing law; and

Born, Davis, Galluccio, Russell

Consent Order #49

Sullivan, Toomey

R-785

Councillor Duehay re: Implementation
of the Telecommunication Act of 1996
by the Federal Communications
Commission and preemption of local and
state authorities.

7/6

In City Council July 29, 1996

Order Adopted