



General Assembly

February Session, 2022

## Substitute Bill No. 278



### **AN ACT CONCERNING FEES PAID TO COMPANIES OR ORGANIZATIONS RESPONSIBLE FOR COMMUNITY ACCESS PROGRAMMING.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-331a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section: [,]

4 (1) ["multichannel video programming distributor"] "Multichannel  
5 video programming distributor" means a multichannel video  
6 programming distributor, as defined in 47 CFR 76.1300, as from time to  
7 time amended, and includes an owner of an open video system, as  
8 defined in 47 CFR 76.1500, as from time to time amended; [.]

9 (2) "Subscriber" means any residential or commercial customer who  
10 purchases one or more of the following services: (A) Video streaming,  
11 (B) Internet access, or (C) cable television; and

12 (3) "Video streaming" means the delivery of video content sent in  
13 compressed form over the Internet and displayed by the viewer in real  
14 time for a fee on a subscription basis.

15 (b) Each company or organization selected pursuant to subsection (c)  
16 of this section, in consultation with the franchise's advisory council,

17 shall provide facilities, equipment, and technical and managerial  
18 support to enable the production of meaningful community access  
19 programming within its franchise area. Each company shall include all  
20 its community access channels in its basic service package. Each  
21 company or organization shall annually review its rules, regulations,  
22 policies and procedures governing the provision of community access  
23 programming. Such review shall include a period for public comment,  
24 a public meeting and consultation with the franchise's advisory council.

25 (c) If a community-based nonprofit organization in a franchise area  
26 desires to assume responsibility for community access operations, it  
27 shall, upon timely petition to the authority, be granted intervenor status  
28 in a franchise proceeding held pursuant to this section. The authority  
29 shall assign this responsibility to the most qualified community-based  
30 nonprofit organization or the company based on the following criteria:  
31 (1) The recommendations of the advisory council and of the  
32 municipalities in the franchise area; (2) a review of the organization's or  
33 the company's performance in providing community access  
34 programming; (3) the operating plan submitted by the organization and  
35 the company for providing community access programming; (4) the  
36 experience in community access programming of the organization; (5)  
37 the organization's and the company's proposed budget, including  
38 expenses for salaries, consultants, attorneys, and other professionals; (6)  
39 the quality and quantity of the programming to be created, promoted or  
40 facilitated by the organization or the company; (7) a review of the  
41 organization's procedures to ensure compliance with federal and state  
42 law, including the regulations of Connecticut state agencies; and (8) any  
43 other criteria determined to be relevant by the authority. If the authority  
44 selects an organization to provide community access operations, the  
45 company shall provide financial and technical support to the  
46 organization in an amount to be determined by the authority. On  
47 petition of the Office of Consumer Counsel or the franchise's advisory  
48 council or on its own motion, the authority shall hold a hearing, with  
49 notice, on the ability of the organization to continue its responsibility for  
50 community access operations. In its decision following such a hearing,

51 the authority may reassign the responsibility for community access  
52 operations to another organization or the company in accordance with  
53 the provisions of this subsection.

54 (d) Each company or organization shall conduct outreach programs  
55 and promote its community access services. Such outreach and  
56 promotion may include, but not be limited to (1) broadcasting cross-  
57 channel video announcements, (2) distributing information throughout  
58 the franchise area and not solely to its subscribers, (3) including  
59 community access information in its regular marketing publications, (4)  
60 broadcasting character-generated text messages or video  
61 announcements on barker or access channels, (5) making speaking  
62 engagements, (6) holding open receptions at its community access  
63 facilities, and (7) in multitown franchise areas, encouraging the  
64 formation and development of local community access studios operated  
65 by volunteers or nonprofit operating groups.

66 (e) Each company or organization shall adopt for its community  
67 access programming a scheduling policy which encourages  
68 programming diversity. Said scheduling policy shall include (1) limiting  
69 a program, except instructional access and governmental access  
70 programming, to thirteen weeks in any one time slot when a producer  
71 of another program requests the same time slot, (2) procedures for  
72 resolving program scheduling conflicts, and (3) other measures which  
73 the company or organization deems appropriate. A company or  
74 organization may consider the availability of a substantially similar time  
75 slot when making community access programming scheduling  
76 decisions.

77 (f) In the case of any initial, transfer or renewal franchise proceeding  
78 held on or after October 1, 1990, the authority may, on its own initiative,  
79 in the first six months of the second, fifth, eighth and eleventh years of  
80 the franchise term, review and evaluate the company's or the  
81 organization's provision of community access programming. The  
82 authority shall conduct such review or evaluation in any such  
83 proceeding held on or after October 1, 1990, if the Consumer Counsel or

84 any interested party petitions the authority for such a review during the  
85 first six months of the review year. During any such review year, if an  
86 organization desires to provide community access operations it shall  
87 petition the authority and the authority shall follow the procedures and  
88 standards described in subsection (c) of this section in determining  
89 whether to assign to the organization the responsibility to provide such  
90 operations. No community access programming produced using the  
91 facilities or staff of an organization or company providing community  
92 access operations shall be utilized for commercial purposes without  
93 express prior written agreement between the producer of such  
94 programming and the organization or company providing community  
95 access operations the facilities or staff of which were used in the  
96 production of the programming. Such an agreement may include,  
97 without limitation, a provision regarding the producer and the  
98 company or organization sharing any profit realized from such  
99 programming so utilized. An organization providing community access  
100 operations shall consult with the company in the franchise area prior to  
101 making such an agreement.

102 (g) No organization or company providing community access  
103 operations shall exercise editorial control over such programming,  
104 except as to programming that is obscene and except as otherwise  
105 allowed by applicable state and federal law. This subsection shall not be  
106 construed to prohibit such organization or company from limiting the  
107 hours during which adult programs may be aired. Such organization or  
108 company may consult with the advisory council in determining what  
109 constitutes an adult program for purposes of this subsection.

110 (h) Upon the request of the Office of Consumer Counsel or the  
111 franchise's advisory council, and for good cause shown the authority  
112 shall require an organization responsible for community access  
113 operations to have an independent audit conducted at the expense of  
114 the organization. For purposes of this subsection, "good cause" may  
115 include, but not be limited to, the failure or refusal of such organization  
116 (1) to account for and reimburse the community access programming

117 budget for its commercial use of community access programming  
118 facilities, equipment or staff, or for the allocation of such facilities,  
119 equipment or staff to functions not directly related to the community  
120 access operations of the franchise, (2) to carry over unexpended  
121 community access programming budget accounts at the end of each  
122 fiscal year, (3) to properly maintain community access programming  
123 facilities or equipment in good repair, or (4) to plan for the replacement  
124 of community access programming equipment made obsolete by  
125 technological advances. In response to any such request, the authority  
126 shall state, in writing, the reasons for its determination.

127 (i) Each company and nonprofit organization providing community  
128 access operations shall report annually to the authority on or before  
129 February fifteenth. The authority shall adopt regulations, in accordance  
130 with the provisions of chapter 54, to specify the information which shall  
131 be required in such report. Such information shall be necessary for the  
132 authority to carry out the provisions of this section.

133 (j) The advisory council shall review all community access  
134 programming of a company or organization within the franchise area  
135 which programming has been the subject of a complaint.

136 (k) The authority shall establish the amount that the company or  
137 organization responsible for community access operations shall receive  
138 for such operations from subscribers and from multichannel video  
139 programming distributors. The amount shall be five dollars per  
140 subscriber per year, adjusted annually by a percentage reflecting the  
141 increase or decrease of the consumer price index for the preceding  
142 calendar year, provided the authority may increase or decrease the  
143 amount by not more than forty per cent of said amount for the  
144 subscribers and all multichannel video programming distributors  
145 within a franchise area after considering (1) the criteria set forth in  
146 subsection (c) of this section, (2) the level of public interest in community  
147 access operations in the franchise area, (3) the level of community need  
148 for educational access programming, (4) the level and breadth of  
149 participation in community access operations, (5) the adequacy of

150 existing facilities, equipment and training programs to meet the current  
151 and future needs of the franchise area, and (6) any other factors  
152 determined to be relevant by the authority. Prior to increasing or  
153 decreasing said amount, the authority shall give notice and opportunity  
154 for a hearing to the company or multichannel video programming  
155 distributor and, where applicable, the organization responsible for  
156 community access programming. The amount shall be assessed once  
157 each year for each end user premises connected to an open video  
158 system, irrespective of the number of multichannel video programming  
159 distributors providing programming over the open video system. When  
160 the authority issues, transfers or renews a certificate of public  
161 convenience and necessity to operate a community antenna television  
162 system, the authority shall include in the franchise agreement the  
163 amount that the company or organization responsible for community  
164 access operations shall receive for such operations from subscribers. The  
165 authority shall conduct a proceeding to establish the amount that the  
166 company or organization responsible for community access operations  
167 shall receive for such operations from multichannel video programming  
168 distributors and the method of payment of said amount. The authority  
169 shall adopt regulations in accordance with chapter 54 to implement the  
170 provisions of this subsection. For any subscriber of multiple services, as  
171 described in subdivision (2) of subsection (a) of this section, the  
172 company or organization responsible for community access operations  
173 shall receive only one payment from the subscriber pursuant to this  
174 subsection.

175 (l) An organization assigned responsibility for community access  
176 operations which organization ceases to provide such operations shall  
177 transfer its assets to the successor organization assigned such  
178 responsibility or, if no successor organization is assigned such  
179 responsibility, to another nonprofit organization within the franchise  
180 area selected by the authority.

181 (m) On petition or its own motion, the authority shall determine  
182 whether a franchise area is subject to effective competition, as defined

183 in 47 USC 543, as from time to time amended. Upon a determination  
184 that a franchise area is subject to effective competition, the provisions of  
185 this section shall apply to multichannel video programming distributors  
186 operating in the franchise area, provided (1) where multichannel video  
187 programming distributors provide programming over a single open  
188 video system, the provisions of this section shall apply jointly and not  
189 separately to all such distributors providing programming on the same  
190 open video system, and (2) the provisions of subsection (k) of this  
191 section shall apply to multichannel video programming distributors  
192 whether or not such distributors operate in a franchise area subject to  
193 such effective competition.

194 (n) No community antenna television company or nonprofit  
195 organization providing community access operations shall refuse to  
196 engage in good faith negotiation regarding interconnection of such  
197 operations with other community antenna television companies serving  
198 the same area. No school or facility owned or leased by a municipal  
199 government that possesses community access operations equipment  
200 shall unreasonably deny interconnection with or the use of such  
201 equipment to any such company or nonprofit organization. At the  
202 request of such a company or nonprofit organization providing  
203 community access operations, the authority may facilitate the  
204 negotiation between such company or organization and any other  
205 community antenna television company regarding interconnection of  
206 community access operations.

207 (o) Each company or organization shall consult with its advisory  
208 council in the formation of a community access programming policy,  
209 the adoption of the community access programming budget and the  
210 allocation of capital equipment and community access programming  
211 resources.

This act shall take effect as follows and shall amend the following sections:		
Section	<i>from passage</i>	16-331a

**Statement of Legislative Commissioners:**

The bill became a substitute due to a title change.

**ET**      *Joint Favorable Subst. -LCO*