



## Alliance for Community Media

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### Alliance for Community Media (ACM) Community Access Preservation (CAP) Act: A Way Forward - FAQ

#### **Who introduced the CAP Act?**

In 2009, former Representative (and now Senator) Tammy Baldwin (D-WI) developed and introduced the CAP Act as HR1341. Two years later, Rep. Baldwin and co-lead sponsor Representative Steve LaTourette (R-OH) re-introduced the CAP Act as HR3745.

#### **What were the primary features of the 2009 CAP Act?**

1. Allows PEG funds to be used for capital or operating expenses.
2. Pre-empts state laws, restoring funding and channels at the level prior to passage of the state franchising law.
3. Defines all wired cable service providers using public rights-of-ways as cable companies subject to franchising.
4. Bars discriminatory treatment of PEG channels, requiring quality, accessibility, functionality and placement equivalent to local commercial TV stations.

#### **Why was the CAP Act necessary?**

Local franchising was eliminated in 22 states by industry-driven state franchising laws that substantially reduced or eliminated PEG funding and channels.

#### **Who developed and supported the CAP Act in 2009?**

A committee consisting of several ACM and NATOA members came together in early 2009 to work on language for a bill. Subsequently, Representative Baldwin was identified as a sponsor and the ACM/NATOA team (as well as several national organizations representing local governments, public interest groups, and Community Media Centers) worked with Representative Baldwin during bill development and supported the CAP Act after introduction in October 2009.

#### **How many Representatives supported the 2009 CAP Act?**

Thirty representatives, all Democrats, signed on. Even though Democrats held both the House of Representatives and Senate and held the Presidency, the bill did not move in committee and did not get a hearing.

#### **How many Republicans supported the 2009 CAP Act?**

None. Though the CAP Act is non-partisan and helps communities in states that are held by both parties, bipartisan support proved impossible.

#### **How many co-sponsors were considered necessary to pass a bill?**

Senior House staff told ACM representatives that 120-150 bi-partisan co-sponsors were needed to move the bill and pass it.

#### **What happened in 2011?**

A bill that does not pass during a congressional session must be re-introduced. Representative Steve LaTourette (R-OH) stepped forward to share lead sponsorship with Representative Baldwin, introducing the CAP Act as HR3745.

#### **How did bi-partisan co-lead sponsorship affect support?**

Fewer than 20 representatives joined the co-lead sponsors as co-sponsors; all were Democrats.

*Promoting Civic  
Engagement Through  
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### **How was the CAP Act changed in 2011?**

In order to gain Rep. LaTourette's support, the section barring discriminatory treatment of PEG channels was significantly weakened.

### **What has happened in 2013?**

The CAP Act has not been reintroduced. Rep. Baldwin was elected to the U.S. Senate and Rep. LaTourette retired. No lead sponsors have been found in the past ten months.

### **What is the position of ACM allies?**

Some local governments no longer support the CAP Act as written because most parts of the act would preempt state laws. Many local governments are not willing to advocate for federal pre-emption of state laws.

### **Are there parts of the CAP Act that do not pre-empt federal law?**

Yes. Eliminating the restriction on PEG funds to capital purposes only, without jeopardizing franchise fees, would be a change to federal law only. There is no local government opposition to this type of congressional fix to federal law.

### **How many states would be helped by a federal fix on PEG funds?**

About half the states with state franchising would be helped. In some communities, PEG funds are the only funds available; these funds sit unused where Community Media Centers (CMCs) have closed due to the loss of operating funds. CMCs in states with local franchising would have greater flexibility in serving their communities.

### **How can the ACM further help states with state franchising?**

Twelve states are not helped by a federal PEG fund fix. Helping these states requires work at the state level to improve or overturn state franchising laws. This work must be done state by state. Success in changing any state franchising laws would provide a valuable precedent for work in additional states.

### **What is needed for a federal or state campaign?**

1. Allies in government and the non-profit world plus community level support.
2. Data to document the negative impact of state franchise- A 2012 NATOA National Conference session focused on the "Broken Promises" made by the industry to eliminate local franchising.

### **What did the industry promise to get state franchising? Did the industry deliver?**

1. Lower rates: no, they did not deliver.
2. More jobs: no.
3. More technological innovation: no.

### **What are the ACM's current plans?**

1. Develop a bill and recruit Congressional support for a federal fix on PEG fees.
2. Identify one or two states that have a strong combination of ACM members, supporters in the state legislature and allied groups. Develop a campaign to improve or overturn a state franchise in the state legislature.