

**CABLE ADVISORY COMMITTEE (“CAC”)
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII**

MINUTES OF MEETING

Date: April 1, 2014

Time: 9:00 a.m. – 12 noon

Place: Queen Liliuokalani Conference Room
Department of Commerce & Consumer Affairs
335 Merchant Street, 1st Floor
Honolulu, HI 96813

CAC MEMBERS: Austin Vali, Beth Tokioka, and Gerry Silva

OTHERS: Kealii Lopez, Director; Catherine Awakuni, CATV Administrator; Laureen Wong, CATV Staff Attorney; Glen Chock, CATV Staff; and Ji Sook (“Lisa”) Kim, CATV Staff Attorney.

AGENDA: The agenda for this meeting was filed with the Office of the Lieutenant Governor.

- I. Call to Order – The meeting was called to order at 9:02 a.m.
- II. Minutes of the January 31, 2014 meeting – There were no questions about the minutes, which were then accepted by the CAC.
- III. Update on Pending Matters
 - A. Designation of PEG Access Organizations
 1. Presentation of `Ōlelo Community Media Application

Director Lopez provided general background information regarding the provisions of Act 19 (i.e., the designation of public, education, or government (“PEG”) access organizations law) and stated that the Cable Television Division (“CATV”) staff is working with PEG access organizations to come up with PEG access services contracts. Director Lopez then provided a short background summary of `Ōlelo Community Media’s (“`Ōlelo”) application process to date.

Mr. Silva made an observation that Act 19 is set to expire on June 30, 2014, and asked what would occur to PEG designations after that date. In

response, Director Lopez stated that Senate Bill ("SB") 2048, which removes the sunset provision of Act 19 is scheduled for hearing on Thursday, April 3, 2014, before the House Judiciary Committee. However, if the bill does not pass, she noted that any PEG designation contracts not signed by June 30, 2014, would have to go through the request for proposal ("RFP") process. Director Lopez acknowledged that the PEG designation process has been delayed and protracted but stated that the CATV staff is working to expedite it, as possible.

Roy Amemiya, President of `Ōlelo, came forth on behalf of `Ōlelo. Aside from oral testimony (see notes below) which was enhanced with a power-point presentation, Mr. Amemiya offered two video (opening and ending) presentations which included testimonials from various individuals on how `Ōlelo impacted their lives.

Mr. Amemiya stated that 2014 was `Ōlelo 25th year of operation. Building on `Ōlelo's mission statement, which is *to strengthen our island voices and advance community engagement through innovative media*, Mr. Amemiya stated that `Ōlelo is focused on empowering voices, working within the community, and using innovative technology to provide services. He noted that it is trying to work with more volunteers than in the past (i.e., to capitalize on volunteers), increase live coverage of community events, and noted its efforts to work with the new statewide channels.

With respect to the statewide channels, Mr. Amemiya remarked that `Ōlelo is negotiating with the DCCA to manage them. He stated that the use of the statewide channels is a positive event since `Ōlelo has various programs such as "Senior Sunrise" and "Kapuna Power" that have statewide appeal. Mr. Amemiya emphasized `Ōlelo's transition to doing more live coverage of events and noted that in 2013 it broadcasted 260 live events and that their live coverage of the same-sex marriage issue had approximately 2,800 viewers. He also remarked upon `Ōlelo's: (1) efforts to act as a bridge and bring about discussion on controversial issues; (2) use of innovative technology to bring about seamless access and delivery of programs; (3) efforts to increase closed-captioning of programs; and (4) efforts with respect to high-definition ("HD") delivery of programs.

Mr. Silva asked if there was a timetable to finalize the awarding of the PEG contracts. In response, Director Lopez stated that establishing a timeline is fair and that she will ask CATV staff to work on a timeline for PEG designations. She noted that the Department would be hard pressed to get one of the contracts finalized by June and that it would be very

difficult to finish all four of the designations by that date. She remarked that some of the negotiations have moved further along than others.

Mr. Amemiya asked about the contract “template” and whether the release of one was imminent. In response, Ms. Awakuni stated that the template is still under review. Director Lopez noted that the completion of the template was not the issue delaying `Ōlelo’s PEG negotiations. She elaborated that finalizing `Ōlelo’s PEG contract issues related to how `Ōlelo will be managing the statewide channels and what the appropriate budget would be for the services needed. In addition, Director Lopez stated that another outstanding matter is the property ownership issue.

Ms. Tokioka asked what would be the worst case scenario if the sunset provision of Act 19 was not removed. Director Lopez responded that the current PEG contracts would need to be extended and that the contracts have been in extension mode for the past nine years or so. She noted that another option would be to request an exemption from the State Procurement Code (currently under a new administrator) or to move forward with the RFP process. Director Lopez stated that seeking an exemption would be the preferred method. Ms. Tokioka asked whether it would be legal to extend the current contracts after the June 30 deadline. Director Lopez responded in the affirmative, but noted that extensions would be for three months or six months and that the prior RFP process took more than three years to complete.

Mr. Amemiya noted that `Ōlelo has suffered some opportunity costs for not having a contract in place. He stated that due to the delays, `Ōlelo could not provide more government programming such as covering meetings of: (1) the Office of Hawaiian Affairs, (2) Board of Education, and (3) University of Hawaii’s Board of Regents. He stated that he could not commit to providing such services without having certainty regard the PEG contract. Mr. Amemiya also noted that his organization has suffered pushback from some clients, since they question `Ōlelo’s decisions to have its staff do more of the executive productions. He noted that `Ōlelo staff is doing the productions to become more proficient with the technical aspects of filming and editing so that they can educate the clients. He stated that `Ōlelo could do more with its clients if they had a PEG contract in place. There were no further comments.

2. Presentation of Na Leo O Hawai`i Application

Director Lopez provided a short background summary of Na Leo O Hawai`i’s (“Na Leo”) application process to date and invited Gerald

Takase, a member of Na Leo's Board of Directors, to speak as its representative.

Mr. Takase began his talk with a video presentation which included testimonials from various individuals that have been impacted by Na Leo. Mr. Takase remarked that Na Leo is setting up a facility in Kona and that their focus is on highlighting community activities. Among other things, Mr. Takase stated that Na Leo's coverage of the Big Island County Council meetings is well viewed and that they broadcast a daily Big Island news program that focuses on local events and activities. He noted that the traditional commercial news program do not sufficiently cover news and community events that occur on the Big Island. Mr. Takase remarked upon Na Leo's work with the schools on the island was well received and that they have provided equipment to the schools, but noted that the level of Na Leo's involvement varies and is dependent on the teachers. Mr. Takase mentioned the 2011 tsunami and the last island-wide outage as examples of Na Leo impact in the community during natural disasters. In particular, he noted that during the outage, Na Leo was broadcasting while the commercial news programs were blacked-out.

Mr. Vali asked whether Station KLEI was operational on the Big Island for which Mr. Takase responded in the negative. Then Mr. Vali asked whether Na Leo had the capability to broadcast live. In response, Mr. Takase stated no, but that they are working on development of that capacity. He then clarified that with respect to County "Civil Defense" issues Na Leo had the capability to go live and noted that this ability was important.

Director Lopez noted that initial meetings had already occurred with Na Leo's board members and officers regarding Na Leo's PEG application for PEG designation and that the submittal of a strategic plan was needed for them to move forward at this time. Mr. Takase remarked that they are hoping to have the strategic plan "wrapped up" by April 13, 2014.

Director Lopez asked whether Na Leo had any opportunity costs as a result of not having the designation process finalized. In response, Mr. Takase stated that he could not identify any lost opportunities. He remarked that they have been operating as if Na Leo would be the entity designated for the Big Island and noted that they will soon do the ground breaking for Na Leo's Kona facility.

Mr. Silva asked who would own Na Leo's Kona facility. In response, Mr. Takase stated that the facility is being built with PEG moneys and stated that in his opinion, the facility will go to whomever the Department

contracts for PEG services on the Big Island. However, he noted that this opinion may not be shared by all members of Na Leo's Board of Directors.

3. Presentation of Hoike: Kauai Community Television Application

Director Lopez provided a short background summary of Hoike: Kauai Community Television's ("Hoike") application process to date and J Robertson, Hoike's Managing Director, came forward to speak on behalf of the organization.

Mr. Robertson remarked that Hoike is on its 27th extension of its existing PEG contract which is frustrating and also noted that: (1) RFP is a frustrating process, and (2) providing services on partial payments is difficult. As background, Mr. Robertson stated that there were approximately 70,000 homes on Kauai with about 26,000 of them with cable. He noted that Hoike had been in operation for 21 years and is the least funded of the Hawaii PEGs, with an estimated annual operating budget of \$550,000.

Mr. Robertson asserted that Hoike's main goal is a permanent location for its operations. He noted that Hoike now provides services through two centers which are opened six days a week (not opened at night due to lack of demand). He commended the operations and mentorship provided by `Ōlelo and noted that Hoike is try to duplicate `Ōlelo services. In addition, he noted that they wanted to use HD equipment and wanted to provide such equipment to students and other clients. Mr. Robertson noted a desire to open a third location on Kauai, and remarked on Hoike's improved submission program and new playback system which improved its ability to provide services to its clients. He also remarked on all of the reports that he provides on behalf of Hoike to its board and as required under its current PEG contract (e.g., annual report, financial audit and inventory report).

Mr. Robertson stated that they are proud of Hoike's community partnerships with, among others, the Kauai Food bank, the Boys and Girls Club, the Kauai Community Development Board and the March of Dimes. He noted that Hoike is a subcontractor to the Kauai government and that they video Kauai Council meetings, planning meetings, and work with the Kauai Mayor on a weekly basis (program dependent on the Mayor's agenda). He also remarked on Hoike's involvement and work with: (1) the Department of Education ("DOE"); (2) the Easter Seals and special needs (or autistic) children; (3) the underserved clients on Kauai and the challenges of doing so (hard to recruit and retain producers); (4) other Hawaii PEGs (monthly conference calls to discuss among other things

“best practices”); and (5) various national organizations including NATOA. Then Mr. Robertson provided a video presentation which included testimonials from various individuals that have been impacted by Hoike.

Ms. Tokioka commended Mr. Robertson with respect to all that he does at Hoike, and remarked about the services provided to the Kauai County government. She remarked that Mr. Robertson does a “terrific job.” Director Lopez asked whether there were any opportunity costs related to the delay in the designation process, to which Mr. Robertson stated there were none. Director Lopez noted that the designation process is being worked on and that the Department is checking in with and trying to get input from educational and government entities regarding their needs.

A member of the public (later determined to be Dan Purcell) interjected and asked what PEG stood for. Director Lopez provided a response and explained that PEG stood for public, education or government access.

4. Presentation of Akaku – Maui Community Television Application

Director Lopez provided a short background summary of Akaku – Maui Community Television’s (“Akaku”) application process to date and Jay April, Akaku’s Managing Director, came forward to speak on behalf of the organization.

Mr. April began his presentation with remarks regarding the Y-beam program, his youth reporter “Tabitha”, and the use of mobile devices to record programs and up load content directly on-line. He noted that collaboration with corporate partners allow Akaku to provide stipends to youth reporters. Then he presented a video presentation which included testimonials from various individuals regarding Akaku.

Mr. April noted that Akaku’s programs could be viewed through three cable channels and its website, and that service is provided through three media centers, one each on Maui, Molokai, and Lanai. He noted that additional funding is needed to provide more services to the communities and that technological parity is needed with cable operators. Mr. April also stated that there is a need for more accountability and a robust franchise agreement and noted that the community should be involved in the process. He remarked on: (1) past partnerships with other organizations such as the Office of Hawaiian Affairs, `Ōlelo, and PBS Hawaii; (2) relationships with the Maui County Council, the Maui Mayor, and State and federal representatives; and (3) Akaku’s contract with the Maui County government to provide record/film County Council meetings and other government activities which, according to Mr. April, is at discounted

rates. Mr. April also noted that Akaku funds the University of Hawaii and DOE on Maui by providing them 25% of the franchise fees it receives.

Mr. April expressed that Akaku's main focus is on innovation. He noted that Akaku was the first to simultaneously broadcast on three platforms (i.e., cable channel, web, and radio) important community issues such as the Superferry hearings, and shot content on a phone (i.e., the last Aloha flight). He noted that Akaku uses various social media platforms such as Skype and twitter, and that they have used smartphones to broadcast live events. Mr. April noted that use of these forms of technology allows Akaku to provide coverage of events in remote areas of its community. He noted that Akaku's "prime directive" is to provide more live broadcast of community and news events, especially during prime time hours. He also noted that he is involved in getting broadband adoption and funding increased and mentioned a state universal service fund. There were no questions from the CAC members.

Director Lopez asked if Akaku experienced any opportunity costs related to the delay in the designation process. Mr. April stated that they experienced no real impacts and noted that while the process is slow he believes that it will good once done.

B. Performance Measurements for PEG Access Organizations

Director Lopez began the discussion regarding performance measurements by noting that: (1) each county may have diverse needs; (2) traditional measures of PEG performance (i.e., frequency of new producers and frequency of the use of PEG equipment) may not always "go to the heart" of the matter; and (3) certain outcomes are difficult to measure. She noted that there are conflicting views on using viewership numbers as a measurement. She remarked that PEG organizations normally do not like using viewership as a measurement and noted that number of viewers do not always equate to best value.

Mr. Vali commented on the use of viewership as a measurement and noted that "if no one sees it, is it worth it." However, he noted that if the mission of the PEGs is to reach out to communities, get kids to stay in school, among other things, "success" may be many things and that the question is how to measure success. Mr. Vali stated that the use of websites by PEGs may be a good way to run programs that have more narrow audiences.

Ms. Tokioka remarked that having different platforms is a good way to showcase diverse programming. She stated that the number of producers

and the demographics of the producers (e.g., sex, race, etc.) as possible measurements of performance.

Mr. Silva wanted to know the views of the PEGs with respect to viewership and measurements, in general. He noted that viewership numbers were important and believed that Oceanic Time Warner Cable LLC (“OTWC”) could provide those numbers regarding digital subscribers. Mr. Silva also discussed wanting to see PEGs using multiple platforms and being involved in various community activities. Based on Mr. Silva’s request, Director Lopez called on each of the PEG representatives to come forward to discuss their views on measurements of PEG performance.

First, Mr. Amemiya representing `Ōlelo came forward and provided CAC members, Director Lopez, Ms. Awakuni, and CATV staff with a handout entitled “Proposed Metrics for PEG Designation Agreement”. The handout was noted that it was for “discussion purposes only” and dated February 28, 2014. At Director Lopez’s request, Mr. Amemiya discussed in summary form each of the measurements on his handout. Hard copies of `Ōlelo’s handout was provided to all present at the CAC meeting based on an interjection from the audience for copies (later determined to be Dan Purcell). Mr. Vali asked Mr. Amemiya whether viewership provided value. In response, Mr. Amemiya stated that he believed that viewership numbers did provide value and described how his organization promoted programs. He noted that while viewership may be important, some programs that they air have targeted audiences, which makes it difficult.

Mr. Takase came forward with respect to Na Leo and noted that Hawaii is one of the few jurisdictions with dedicated funding for PEG services. Among other things, he mentioned community events, activities, and interactions as good measures of PEG performance. Then Mr. Robertson, on behalf of Hoike, came forward and noted that in his perspective, viewership numbers are interesting but irrelevant. He stated that if someone has something to say, that person should be provided an opportunity to present his/her views and that the message is more important than viewership. Mr. Robertson remarked that analog viewers cannot not be measured and stated that he wanted viewership numbers collected by a third-party and not those collected by OTWC. Mr. Robertson remarked that while community partnerships can be measured, as a whole, traditional forms of measurements (e.g., number of programs and number of the equipment used) should be used and noted the difficulty in standardizing measurements. Moreover, he noted that outreach conducted in the community by PEGs is difficult to value and measure. At this juncture, Mr. Robertson remarked that he would like to have feedback with respect to the reports that he submits on behalf of

Hoike and that he values two-way communication regarding the PEG reports.

Finally, Mr. April came forward on behalf of Akaku and noted that while programs that are narrowly tailored to a specific audience by PEGs are important, viewership numbers are also important. He stated that he wants viewership numbers from OTWC and that upon receipt of them Akaku can work with its producers and on promotional activities to increase viewership. However, he noted that it is a “mixed-bag” and stated that viewership numbers is “not the only thing that drives the bus.” Mr. April also remarked that promoting programs and increasing viewership is “not a science, it’s an art.” There were no further questions by CAC members to the PEG representatives.

Ms. Tokioka questioned how viewership numbers can be obtained from OTWC. Director Lopez stated that doing so would be a franchise issue. Furthermore, she stated that she was not aware of what OTWC needed to do to get PEG viewership numbers but noted that this could be part of the discussions. Mr. April interjected from the audience that program listing and signal quality were barriers to viewership. Mr. Silva noted the need to review viewership numbers in context and commented that once you have the numbers, what are done with them.

IV. New Business

A. Update of 2014 Legislative Session

Ms. Awakuni provided an update of SB No. 2048, Senate Draft 1, House Draft 1 which was up for hearing before the House Judiciary Committee on Thursday, April 3, 2014 at 2:00 p.m. She also discussed: (1) the passage of Governor’s Message (“GM”) No. 542, which appointed Mr. Silva to another CAC term, and congratulated him; (2) that GM No. 698, appointing Timothy Bryan to the CAC for the Big Island seat, was sent to the Senate Committee for consideration; and (3) her efforts to fill the Maui CAC seat.

Director Lopez noted that several legislators have expressed interest with respect to the upcoming merger between Time Warner and Comcast. Ms. Awakuni elaborated that the application had not yet been filed, that applications are expected for each of the franchises, and that public hearings will need to be conducted in each franchise area. She further noted that under federal law, the department’s review needed to be completed within 120 days of the filing of the application and that failure to complete the review within the time allotted would be deemed approval of

the proposed transfer, unless the requesting party and the franchise authority agree to extend the deadline. Director Lopez remarked that while there were four counties, the DCCA had six franchises to consider with respect to the upcoming merger.

V. Public Comment

- A. Dan Purcell – Member of the public. Mr. Purcell noted that having public comments at the end of the meeting is like doing them as an afterthought. He asked Director Lopez to reconsider the format of the meeting and allow public comments after each topic. Mr. Purcell commended the works of Jay April of Akaku, and stated that he adopted Mr. April's views and comments. Furthermore, he remarked that he was a long-time customer of cable but that he was most interested in high-speed Internet which, in his opinion, is the most needed. Mr. Purcell also remarked that on-demand programming should be encouraged.
- B. Tabitha Blessum – Student Reporter with Akaku. Ms. Blessum, an 11th grade student from Kihei High School, provided testimony regarding her experience with Y-Beam the program through which she first worked with Akaku. She noted that she uses the latest technology to video and upload content and has: (1) learned to edit programs; (2) worked on public service announcements; and (3) hosted programs. Ms. Blessum provided a first-hand account of how her work with Akaku has positively impacted her life and noted that due to her training and experience she is known as the go-to person with respect to video matters at her school. She stated that while her future is yet uncertain, due to her experiences, she could envision entering the broadcasting/video programming field in the future. She also remarked that providing the cable operator a 20-year franchise is "ridiculous" given the rapid technological changes that are occurring in the cable industry and noted her frustration with the quality of her videos as they are presented by the cable operator (i.e., a signal quality issue).

VI. Announcements

Director Lopez stated that she would like to have the next CAC meeting in May 2014, depending on the CAC members' schedules and noted that it could be held on Maui if Jay April of Akaku would host. Director Lopez noted that she hopes to delve more into the performance measurements and discuss the Big Island franchise during the next CAC meeting.

VII. Adjournment – The meeting was adjourned at 11:57 a.m.

Taken and recorded by:

Ji Sook Kim

Date: _____

DRAFT