



# Commercial Advertising on HTV

BY TED IRVING

DECEMBER 8, 2020

# Historical Information

- ▶ Created by the Cable Communications Policy Act of 1984.
- ▶ , Section 611 (Communications Act) local franchising authorities may require that cable operators set aside **channels** for public, educational, or governmental ("**PEG**") use. In addition, franchising authorities (State of Texas) may require cable operators to provide services, facilities, and equipment for the use of these **channels**. [www.fcc.gov](http://www.fcc.gov)
- ▶ Three Channel Types:
  - Public Access (Houston Media Source)
  - Educational (HISD TV, and HCC TV)
  - Government (Houston Television)/HTV

**Governmental** access channels are used for programming by local governments. In most jurisdictions, the local governments directly controls these channels. Also called Municipal Television. Source: [FCC PEG](#)

# Governance

► PEG channels are not mandated by federal law, rather they are a right given to the franchising authority, which it may choose to exercise. The decision whether to require the cable operator to carry PEG channels is up to the local franchising authority.

In accordance with state franchise rules cable operators may adopt on their own, non-content-based rules governing the use of PEG channels. For example:

- Rules may be adopted for allocating time among competing applicants on a reasonable basis other than the content of their programming.
- Minimum production standards may be required.
- Users may be required to undergo training.

***Federal law permitted a cable operator to prohibit the use of a PEG channel for programming that contains obscene material, sexually explicit conduct, indecency, nudity, or material soliciting or promoting unlawful conduct. However, the U.S. Supreme Court determined that this law was unconstitutional. Therefore, cable operators may not control the content of programming on public access channels with the exception that the cable operator may refuse to transmit a public access program, or a portion of the program, which the cable operator reasonably believes contains obscenity.***

# FCC and Advertising on PEG

▶ No federal law or regulation either permits or bans commercial advertising on public, education or governmental (PEG) cable television channels, the Federal Communications Commission (FCC) said in reply to a question raised by advocates of a local cable television station. [GVNews.com](http://GVNews.com) May 13, 2005

▶ The question of whether to allow commercial advertising on PEG channels is up to the local franchise authority (LFA), State of Texas

▶ Sources:

[Scannatoa.org](http://Scannatoa.org) Article by Neil Lehto (CA Comms Law)

. [Time Warner Cable v. City of New York, 943 F. Supp. 1357, 1387 \(S.D.N.Y. 1996\).](#)

. [In the Matter of Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting 1992 Reprint excerpted from Public Notice, April 11, 1986 \(FCC 86-161\), which was published at 51 Federal Register 21800, June 16, 1986, 7 FCC Record 827.](#)

. [The Putnam Pit v. City of Cookeville, 221 F.3d 834 \(6<sup>th</sup> Cir. 2000\).](#)

. [See, e.g., Time Warner Cable v. Bloomberg supra.](#)

. [State of Texas Cable and Video Franchise Regulations regarding Gross Revenues \(6\)\(A\) pg 373-374](#)

# Advertising on a Government Channel

## CHALLENGES

- Cable Company Conflicts
- Vendor Conflicts
- Advertising Influence
- Advertising Expansion to P.E.G.
- Inferior Signals
- Profit Sharing
- Station Status Change
- No Ratings
- P.E.G. Revenue Elimination



# Potential HTV Special Revenue Sources

- ▶ Sponsorships
- ▶ Underwriting
- ▶ Grants
- ▶ Chargeback to City Departments
- ▶ External Client Services

*Note: Other Texas PEG Channels*

- *No other PEG Channels found in Texas engaging in commercial advertising*
  - *Source: TATO – Texas Association of Telecommunications Officers & Advisors*
- 



## ▶ Potential conflict with Cable Companies

▶ Comcast provides PEG channels at no cost. These channels would normally provide Comcast with revenue.

▶ HTV would become a competitor, of theirs, for ad sales.

## Additional Potential Conflict with Cable Companies

- ▶ AT&T places all PEG channels on a community channel. They do not allow ad-based channels per internal policies.



# Vendor Conflict

- ▶ Will the city allow vendors to buy ad space on the channel and advertise products, and services?
  - FCC rules for states & local authorities – State can require PEG channels, or not, as the Franchise Authority. Local can take advantage of offering.
  - State of Texas Law - PEG is for non-commercial programming.
  - Complicated 1<sup>st</sup> Amendment issue of free speech. For a city what is acceptable speech & what is not?
  - Declining a vendor to advertise could result in a claim of free speech violation against the city.
  - Difficult to choose regarding political ads, advertising certain products but not others & advertising for a vendor with a pending contract.

# Sponsorships vs Advertising

▶ Sponsorship, unlike an advertisement, does not directly show or mention a product or service, the benefits and attributes of a product/service. Advertising is much more persuasive as a video.

▶ Junk Food Example – Could result in complaints on health issues.

- *Government Channels should avoid the complications of promoting businesses through a government resource.*

# Ad Revenue for HTV, or all P.E.G. Channels?

- ▶ Would all PEG channels, HTV, HISD-TV, HCC-TV, and Public Access be allowed to advertise?
- ▶ Would the city be responsible for creating a customized ordinance for each interlocal agreement with varying rules for advertising to specific audiences? Ex - HISD=Education

# Ad Rates lower than Commercial

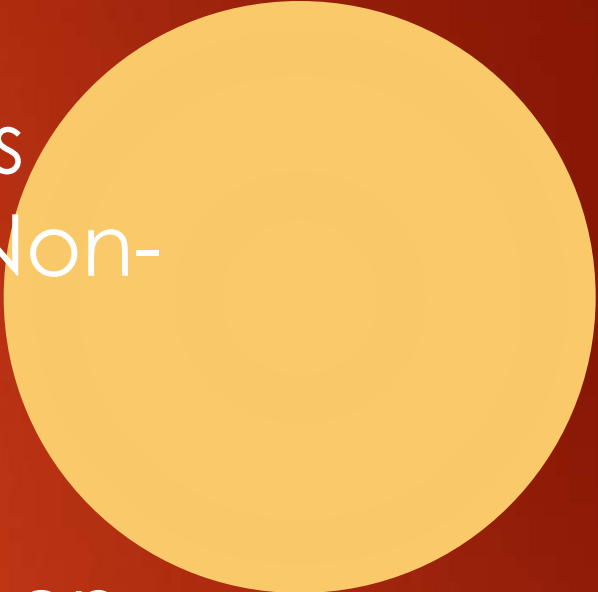

- ▶ HTV is a High Definition TV station. However, Comcast and AT&T only provide a very low resolution channel similar to older 4:3 technology (1980's). HTV would be attempting to generate revenue for an inferior product.

# Profit Sharing

- ▶ Will HTV have to profit share with community programming from external clients?

# Ratings & Viewership



- ▶ Neither Nielsen or Cable Companies provide any ratings information for Non-Paid programming channels.
  - ▶ Companies spend money based upon ratings.
- 
- 

# Challenges of Advertising on P.E.G.

- ▶ Revenue from advertising on PEG channels can be cited as a reason cable operators should not have to pay PEG fees. This is not something they would bring up individually with cities. This is something they would bring to the state legislatures attention to get the 1% PEG fee eliminated for all Texas cities. 1% of a cable operator's revenue may be more than any advertising revenue. ***There may be more risk than reward in pursuing ad revenues.***



# REVENUE GENERATION EXAMPLE

*(Draft based on HTV non-market rates)*



Revenue	DIRECTION	DUR	DIALOGUE
<b>Sponsor 1</b>	<b>\$1,000</b>		
<b>Sponsor 2</b>	<b>\$800</b>		
<b>Sponsor 3</b>	<b>\$600</b>		
	<b>### BLOCK ONE ###</b>		<b>### BLOCK ONE ###</b>
	ROLL OPEN	:15	
	WELCOME ANCHOR	:10	Hello, welcome to this edition of HTV News Source. I'm your host, Mariana Oyanguren.
	ANCHOR INTRO MARTIN DREDGE	:10	City Council member Dave Martin has been working on a major project to dredge and fix damage caused by Hurricane harvey. The project runs from San Jacinto river to Lake Houston.. Take a look.
<b>PKG Sponsor \$500</b>	ROLL MARTIN DREDGE PKG	1:58	

Example Show Sales by Script Blocks

30 Min Show w/4 Blocks & 4 Ad Breaks

<b>4 Spots \$400</b>	<b>### BREAK ONE ###</b>	2:00	<b>### BREAK ONE ###</b>
	<b>### BLOCK TWO ###</b>		<b>### BLOCK TWO ###</b>
	ANCHOR WELCOME	0:05	Welcome back to HTV News Source. In other news, Mayor Sylvester Turner appointed Chris Olson as the new Director of International Affairs. Check it out.
	ANCHOR INTRO CHRIS OLSON DIR	0:07	
<b>PKG Sponsor \$300</b>	ROLL OLSON PKG	2:02	
	ANCHOR INTRO TRADE WITH INDIA		Mayor Sylvester Turner addressed members of the community about trade with INDIA. Take a look.
<b>PKG Sponsor \$200</b>	ROLL NAT PKG CHERI	1:30	
	ANCHOR TAG	0:05	That is a very impressive number.

			When we come <u>back</u> we talk to CM Amanda Edwards and her new plans regarding transportation.
<b>4 Spots \$200</b>	<b>### <u>BREAK TWO</u> ###</b>	2:00	BREAK TWO
	<b>### <u>BLOCK THREE</u> ###</b>		BLOCK THREE
	ANCHOR WELCOME BACK	0:05	Welcome back to HTV News Source.
	ANCHOR INTRO CM EDWARDS	0:10	Our HTV cameras caught up with <u>Council member</u> Amanda Edwards who spoke candidly about new plans regarding Transportation.
	ROLL VO/SOT EDWARDS	1:30	
	ANCHOR TAG	:10	If you need more information you can call 832 393 3012.
	ANCHOR GOODBYE	0:10	Thanks for watching this edition of HTV News Source, I'm your host Mariana Oyanguren, until next time make it a great day.

<b>TOTAL SPONSOR REVENUE FOR 30 MIN SHOW</b>	<b>\$1,500</b>	<b>Total Revenue for 12 Episodes (1 year)</b> <b>\$18,000</b>
<b>Total Commercial Run Revenue</b> <b>4 spots per break</b>	<b>\$780</b> <b>(\$100 per run or appearance)</b>	<b>Total Revenue for 12 Episodes (1 year)</b> <b>\$9,360</b>
<b>Total Commercial Production Revenue</b>	<b>\$1650</b> <b>(\$550 for HTV to make 3 out of 16 spots)</b> <b>2Min=4 spots</b> <b>4 Breaks=16 spots</b>	<b>Total Revenue for 12 Episodes (1 year)</b> <b>\$19,800</b>
<b>TOTAL REVENUE GENERATED</b>	<b>One Full Year of a Single Monthly Show</b>	<b>\$47,160</b>
<b>Cost Per Episode</b> <b>\$3,000</b>	<b>New Staff of 5</b> <ul style="list-style-type: none"> <li>- Each paid at their individual hourly rate based upon their pay grade</li> <li>- Supplies</li> <li>- Wear &amp; Tear on equipment</li> <li>- Talent Fees</li> <li>- Music &amp; Graphics</li> </ul>	<b>Total Expense Deduction per year for a 30 min show</b> - <b>\$36,000</b>
<b>Actualized Revenue</b>	<b>Total Income after Expenses</b>	<b>\$11,160</b> <b>(per year for one 30 min show)</b>

# HTV Estimated Cost to Implement Commercial Advertising at Projected Yield \$11,160

- Low resolution signal equates to less advertising rates
- Increased staff by 5
  - **Full-time sales rep** (*no current employees with this skill set*)
  - *Supplies, Materials, Travel Expenses*
  - **Part-time sales rep** (*no current employees with this skill set*)
  - *Supplies, Materials, Travel Expenses*
  - **Part-Time production staff to cover weekends & added programming to sell ads in**
    - **Three part-time production staff on weekends**
    - **Profit Sharing**
    - Cost per Episode – already included

## Estimate:

Yearly Investment to Advertise: \$322,360.00 **(Preliminary Estimate without Finance Cost Analysis)**

Requires 27 + 30 min TV Shows to cover investment.

Current HTV FTE = 18

Current Operations cost = \$1.25 Million per year.

# Online Resources

## 1. Is Commercial Speech Permitted on Government Access Channels?

The U.S. Cable Communications Policy Act of 1984, as amended, does not specifically preclude commercial speech on PEG channels

## 2. No Rule Bans Commercials on Public TV

## 3. August 2019 FCC PEG Rules

- a. The commission concluded that requirements concerning local franchising authority regulation of cable operators should apply to state-level franchising actions and state regulations related to local franchising. The idea of commercial advertising on a PEG should probably go through the state Franchise Authority.

**Thank You.**

