



County of Los Angeles
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March 13, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**REQUEST FOR AMENDMENT TO COUNTY CODE IMPLEMENTING PROVISIONS OF
THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006 RELATED TO
STATE VIDEO SERVICE FRANCHISES SERVING COUNTY UNINCORPORATED AREAS
(ALL DISTRICTS) (3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve ordinance amending Title 16 of the Los Angeles County Code to add a new Division 6 in order to implement provisions of the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), as codified in California Public Utilities Code (CPUC) Section 5800 et seq.
2. Introduce, waive reading and place on your Board's Agenda for adoption the attached ordinance that implements the above recommendation.
3. Find the ordinance categorically exempt under the California Environmental Quality Act (CEQA) pursuant to Class 1, Section (e) of the Environmental Document Reporting Procedures and Guidelines adopted by your Board on November 17, 1987, and Section 15301 of the State CEQA Guidelines.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

DIVCA became effective on January 1, 2007 as a result of the passage of California Assembly Bill 2987 in 2006. DIVCA provides for a State video franchising process to be administered by the California Public Utilities Commission. In order for several advantageous provisions of DIVCA to become operative in local jurisdictions, local governments are required to adopt ordinances prescribing their applicability. Adoption of these provisions will allow the County to: 1) obtain additional revenue equal to 1 percent of a State franchise holder's gross revenues for public, educational, and government (PEG) purposes; 2) clarify the County's role in the collection of franchise fees; 3) apply penalties, although limited under DIVCA, for violations of

DIVCA-prescribed customer service standards; 4) impose time, place, and manner restrictions on the use of County public rights-of-way; and 5) provide a process for State franchise holders to appeal encroachment permit denials.

Implementation of Countywide Strategic Plan Goals

Approval of this recommendation will assist in implementing the Countywide Strategic Plan Goal of Fiscal Responsibility by providing the County with the ability to continue its collection of franchise fees and obtain additional revenue for PEG purposes including the County Channel. This will also provide an opportunity to continue goals of Service Excellence and Community Services by allowing the enforcement of DIVCA-prescribed customer service standards and the assessment of penalties for failure to meet those standards.

FISCAL IMPACT/FINANCING

There will be no cost to the County. Adoption of this ordinance will provide the County with the ability to obtain additional revenue from State video franchise holders for PEG support in the amount of 1 percent of gross revenues (CPUC Section 5870). The County will continue to receive franchise fees of 5 percent of cable operators' gross revenues as well as 5 percent from the new State franchise holders' gross revenues (Section 622(b) of the Cable Act of 1984 and CPUC Section 5840).

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Under DIVCA, new video service providers (e.g., AT&T and Verizon) will have the ability to apply for a State video franchise as early as March 2, 2007. The California Public Utilities Commission could issue a State franchise any time within the next 44 days. Therefore, it is in the County's best interest to ensure that the County Code is updated as soon as possible in order to preserve County rights as these new State video franchises come into effect.

State franchise applicants are required to designate which areas within the State they intend to serve and local jurisdictions named will be notified accordingly. In contrast, incumbent cable operators (e.g., Time Warner, Charter, Cox) who apply for a State franchise must wait until January 2, 2008, at the earliest, before a State issued franchise may become effective, according to DIVCA.

DIVCA affords the County the ability to obtain revenue for PEG purposes (CPUC Section 5870); collect franchise fees (CPUC Section 5860); assess penalties for violations of customer service standards (CPUC Section 5900); and impose restrictions on the use of County public rights-of-way (CPUC Section 5885). DIVCA also requires the County to provide a process for State franchise holders to appeal encroachment permit denials (CPUC Section 5885(c)(4)).

Currently, cable operators choose to pass through to subscribers fees legally imposed on them and reflect them as a line item on subscribers' cable bills. It is foreseeable that video service providers also will choose to pass through the PEG support fee imposed on them and reflect it as a line item on subscribers' bills as permitted by law (Section 622(c) of the Cable Act of 1984).

The Office of the County Counsel has reviewed the attached ordinance and approved it as to form.

ENVIRONMENTAL DOCUMENTATION

The proposed County Code amendment is categorically exempt under CEQA pursuant to Class 1, Section (e) of the Environmental Document Reporting Procedures and Guidelines adopted by your Board on November 17, 1987, and Section 15301 of the State CEQA Guidelines.

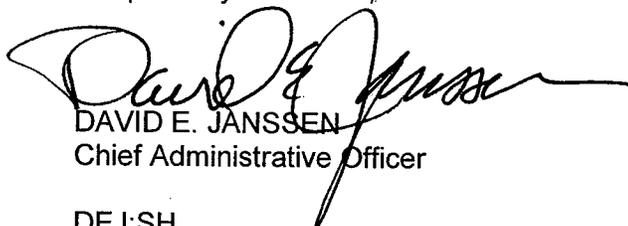
IMPACT ON CURRENT SERVICES (OR PROJECTS)

With the adoption of this ordinance, key County rights and requirements will be preserved (e.g., franchise fees, PEG fees and access, customer service standards, management of public rights-of-way, etc.) and be applicable to State franchised video service providers operating in County unincorporated areas. The full impact of DIVCA is unknown because it is a new law and the California Public Utilities Commission has just begun to implement and reconcile various portions of the new law. CAO staff will continue to monitor and keep the Board updated, as appropriate.

CONCLUSION

The ordinance proposed is necessitated by new State law which became effective January 1, 2007. The ordinance amending Title 16 of the Los Angeles County Code to add a new Division 6 should be adopted as soon as possible to protect and preserve the interests of the County and its constituents.

Respectfully submitted,



DAVID E. JANSSEN
Chief Administrative Officer

DEJ:SH
FT:jr

Attachment: Ordinance

c: Executive Officer, Board of Supervisors
County Counsel
Auditor-Controller
Director of Public Works