

CHARTER TOWNSHIP OF MERIDIAN

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Background information leading up to this suit:

The Township began a lawsuit in December 2007 with the Cities of Dearborn and Warren and Bloomfield Township in the fight to stop Comcast from converting all public, educational and governmental (PEG) channels to digital and moving them from the basic tier to a 900 series of channels. In short, PEG channels are being treated differently than other channels on the basic service tier, and are therefore being discriminated against in clear violation of federal laws. The violations are of Federal Communications Commission (FCC) regulations and numerous provisions of the Cable Act of 1992. Federal District Judge, Victoria Roberts (Michigan Eastern District) has agreed with the Township's position, thus ruling in our favor.

The Court stopped Comcast from changing access channels to a digital format by issuing new orders on November 24, 2008. In the first order, the Court rejected claims by Comcast that cable operators could transmit PEG channels in any format. Comcast was claiming that Section 544(e) which states that "No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology" allows them to do so. The court rejected that claim.

The Court stated that the Cable Act "affirms the ability of a Local Franchise Authority (i.e. Meridian Township) to establish and enforce franchise provisions concerning facilities and equipment related to PEG channels and for educational and governmental use of channel capacity on institutional networks."

In a second order, the Court denied a motion filed by Comcast in which Comcast had asked the court to immediately certify questions to the Sixth Circuit Court of Appeals for review. This decision's effect is mainly procedural; it means that the Court will submit questions regarding the change of PEG channels to a digital format to the FCC for resolution rather than having certain legal issues resolved by the Sixth Circuit first. The Court did reaffirm that Michigan law was preempted by federal law to the extent it prevents localities from enforcing PEG requirements in existing franchises. The Court submitted seven questions for the FCC to answer to the Meridian attorneys on November 26.

Thank you for your support. If requested, those who provide financial support will be mentioned in our reply brief to the FCC.

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