September 3, 2003

TO: The Honorable Mark Recktenwald, Director  
Department of Commerce and Consumer Affairs

FROM: Patricia Hamamoto, Superintendent

SUBJECT: PEG ACCESS IN HAWAI’I

The Department of Education appreciates the opportunity to participate in the evaluation of issues relating to PEG access in Hawaii and to move forward on a statewide cable television franchising plan. For the past several years, we have worked with the University of Hawaii and the Hawaii Association of Independent Schools to develop a coordinated plan to deliver educational programming for statewide dissemination via cable.

Working in collaboration with the University of Hawaii and the Hawaii Association of Independent Schools, we have developed the enclosed statement as our shared input to the plan that you will be developing. The Department is faced with the challenge of redesigning a school system relevant for the 21st century and working to address the No Child Left Behind federal legislation. It becomes critical for all of us to be able to collaborate and share resources to build upon the telecommunication infrastructure that has been developed. The current and future franchise framework and agreements will critically affect our ability to provide instructional programs and supplemental services to our students statewide.

The Department of Education strongly supports the positions outlined in this statement and looks forward to further discussions. Our point-of-contact is David Lassner, Chief Information Officer for the University of Hawaii system, who can be reached at 956-3501 or david@hawaii.edu.

PH:gm

Enclosure

c: Office of Curriculum, Instruction and Student Support  
Board of Education
September 2, 2003

Mr. Mark Recktenwald, Director
Department of Commerce and Consumer Affairs
State of Hawai'i
1010 Richards Street, 2nd Floor
Honolulu, HI 96813

Dear Mr. Recktenwald:

The University of Hawai'i notes with great interest your current evaluation of issues relating to PEG access and cable television franchising. We have worked together with our colleagues from the Department of Education and the Hawai'i Association of Independent Schools for many years on these matters.

Our organizations have collaborated to develop the enclosed statement as our shared input to the Plan you will be developing. The cable television franchise framework and agreements are critical to the accredited educational institutions in the State of Hawai'i and our ability to serve some 300,000 students statewide.

The University of Hawai'i strongly supports the positions outlined in this statement and looks forward to discussing our hopes and concerns with you so that you can understand the importance to education of the resources under your stewardship. Our point-of-contact is David Lassner, Chief Information Officer for the University of Hawai'i system, who can be reached at 956-3501 or david@hawaii.edu.

Sincerely,

Evan S. Dobelle
President

Enclosure
August 29, 2003

Mr. Mark Recktenwald, Director
Department of Commerce and Consumer Affairs
1010 Richards Street, 2nd Floor
Honolulu, Hawaii 96813

Dear Director Recktenwald:

The Hawaii Association of Independent Schools notes with great interest your current evaluation of issues relating to PEG access and cable television franchising. We have worked together with our colleagues from the Department of Education and the University of Hawaii for many years on these matters.

Our organizations have collaborated to develop the enclosed statement as our shared input to the Plan you will be developing. The cable television franchise framework and agreements are critical to the accredited educational institutions in the State of Hawaii and our ability to serve some 300,000 students statewide.

The Hawaii Association of Independent Schools strongly supports the positions outlined in this statement and looks forward to discussing our hopes and concerns with you so that you can understand the importance to education of the resources under your stewardship.

Please contact me at 973-1535 or robertw@hais.org should you have questions that I may be able to address. David Lassner, Chief Information Officer for the University of Hawaii system, is also available for inquiries and can be reached at 956-3501 or david@hawaii.edu.

Sincerely,

[Signature]

Robert M. Witt
Executive Director

Enclosure
Statement of the
Department of Education, University of Hawaii and
Hawaii Association of Independent Schools
Regarding Cable Franchise Issues

Introduction

Hawaii’s educational community notes with great interest the current
evaluation of issues relating to Public, Education and Government (PEG)
cable access programming and the intention to develop a new Statewide
Cable Access Plan. Hawaii’s educators were engaged in educational access
programming before the birth of the PEG access organizations in Hawaii, and
have been key participants in the discussions that led to the current
franchising framework.

As a result of the consistently strong support of accredited education by
DCCA for more than a decade, the current cable franchise agreements have
provided Hawaii’s educational community with an incredible opportunity to
work together to serve the people of Hawaii on all islands. We collaborate
primarily through the Hawaii Educational Networking Consortium (HENC), a
decade-old partnership that now includes the University of Hawaii, the
Department of Education and the Hawaii Association of Independent Schools.
Collectively, we represent all accredited education in the State of Hawaii and
we serve approximately 300,000 students at all levels on all islands.

We have become the single largest source of access programming by
providing between one and two channels of educational programming on
every island. We have used the channel capacity and the programming
resources we have been able to obtain to increase educational opportunities
on all islands. And we have worked together with the State of Hawaii to
leverage the franchise agreements to develop a shared Institutional Network
(I-Net) that is at the core of Hawaii’s future in digital education and
government. In addition, we serve the public interest by making legislative
programming produced on one island available throughout the State, now on
a live basis during session.

The stakes are high for our ability to continue to serve the public, so we view
the current process with both concern and hope. On the one hand, drastic
changes in the franchising framework such as assigning full responsibility for
all aspects of cable franchising to the Counties might potentially result in the
loss of countless educational opportunities for Hawaii’s people and the loss of
millions of dollars of services to the State, which we would be seeking new
funds to replace. On the other hand, the current situation could be improved
if the benefits we have achieved could be more formally and structurally
institutionalized to avoid the negative and energy-sapping contentiousness that has characterized many of the discussions around cable franchising and PEG access.

This statement lays out the key areas in which the cable franchise agreements are critical to providing educational services on all islands. We recognize that DCCA’s Plan will balance the needs and perspectives of many organizations and individuals, and we hope we have respectfully provided both general background and specific ideas on how to ensure that the cable franchising authority currently vested with the State continues to serve as a tool to broaden access to education on all islands. We believe that there are many ways you can ensure that the new Plan will help us meet the educational needs of the people of Hawaii while still addressing the concerns raised by the Public Access constituency as outlined in your background document.

Questions may be referred to any of UH, DOE or HAIS, or to David Lassner, Chief Information Officer of the University of Hawaii (956-3501, david@hawaii.edu), who can coordinate the provision of further details or information about HENC and the criticality of the cable franchise agreements to our collection mission to advance educational opportunity for people throughout the State of Hawaii.
Executive Summary

Hawaii’s cable franchising has been a vital component of the ways in which Hawaii’s educational community has served the people of Hawaii. The University of Hawaii, Department of Education and Hawaii Association of Independent Schools have worked together, primarily through the Hawaii Educational Networking Consortium (HENC) to leverage this opportunity for the people of all islands. The Department of Commerce and Consumer Affairs has been a strong supporter of education and our work for over a decade.

The current statewide approach has ensured availability of educational access cable channels on all islands, which we have recently negotiated to achieve consistent educational channel lineups on all islands. Unfortunately, the availability of financial resources from the PEG access organizations to support the Educational or E component of PEG has been less consistent and the source of many unproductively contentious discussions, including right now in Maui County. In addition to the PEG aspects of the franchise agreement, the I-Net provisions of the cable franchise agreements are critical to serving our under-funded public schools, campuses and education centers statewide.

Our major concern is ensuring the continuing availability of these essential resources, no matter how the issues relating to Public access or P programming are resolved. To that end, our most favored future would provide for the following:

1) Direct assignment of two dedicated channels on all islands for educational programming from accredited educational institutions – one at the K12 level and one for Higher Education programming – with high-quality connections from educational origination facilities into the cable networks.

2) A firm decision institutionalized in public policy that maximizes the level of PEG programming resources allocated to support production of E programming on these channels -- without continued pitting of Hawaii’s educational community against the proponents of P programming in a zero-sum game that is constantly and contentiously negotiated and renegotiated.

3) Continued commitment to the Institutional Network to serve the State’s public education and government institutions.

We believe these should be statewide commitments so that we can maximize access to educational opportunities for Hawaii’s people on all islands.
PEG Access and Education

The principles of PEG access call for three strong components: Public, Education and Government programming. As participants in the original public meetings that led to the current approach to franchising, the University and DOE stressed the importance of Educational Access programming and our commitment to serve the public through cable television. We believe these representations and commitments were significant factors in DCCA’s original decision to allocate 3% of gross revenue for all of Public, Education and Government programming and in deciding how many PEG channels to allocate.

Hawaii’s accredited educational institutions have indeed embraced the opportunities provided by the franchise agreements to serve the public throughout Hawaii via cable television. Without belaboring our accomplishments, we have provided an Associate of Arts degree via cable television statewide by leveraging and coordinating the efforts of UH campuses on different islands, we have provided language instruction (including Hawaiian language) statewide, we are providing certification programs for educational assistants statewide to help comply with the No Child Left Behind (NCLB) Act, we are providing certification for teachers statewide to meet NCLB requirements, we provide courses for students in schools throughout the State in subject areas where schools do not all have teachers available, and we provide a variety of informational programs that serve the 250,000 (300,000) students, faculty and staff of Hawaii’s educational community and the public-at-large. One of the newest Educational Access projects is the collaborative work between the DOE and DCCA to develop and present an educational television series for the public on “Financing Your Future.”

The current franchise agreements are consistent across the State. But they place responsibility for all aspects of Public, Education and Government access programming under the auspices of county-based private non-profit organizations: the PEG access organizations. This has meant that to provide educational programming to the entire State via cable TV, the education community has had to work and negotiate separately with four independent organizations. These organizations have exhibited shifting priorities and variable commitments to Educational Access programming by Hawaii’s educational institutions. At times, some of the relationships have been quite contentious. The basic problem is that any resources allocated to educational institutions for Educational Access programming are sometimes viewed by the PEG access organizations as taking resources out of the
Statement from Education on PEG Access Issues

hands of the Public Access programmers, who are generally viewed as the primary constituency of the PEG movement.

We would like to review three specific aspects of PEG access that are of particular concern to education: PEG channel capacity, connectivity into the cable systems via the PEG Network, and the allocation of financial resources for educational programming.

PEG Channel Capacity

The educational community has generally enjoyed a positive relationship with the PEG access organizations around the issues of channel capacity. They have supported us with reasonable allocations of channel capacity given what they have had to work with. DCCA has been extraordinarily supportive of our efforts, writing this requirement into the recent franchise agreements, and all PEG access organizations have been gracious in working with us. Most recently, we have worked with the PEG access organizations to achieve a common Educational Access channel lineup throughout the State.

Of great concern is recent discussion at one of the PEG access organizations as to whether Education is really entitled to use PEG channels at no cost. A recent committee report suggested that the allocation of an Educational channel might carry a value of $100,000 and that perhaps Education should be required to provide a quid pro quo for the channel given to it by the PEG access organization. From an educational perspective, this represents an extremely disturbing view of PEG and the role of accredited education in Educational Access programming. The educational community would like to ensure continuing access to two educational channels with a consistent channel lineup on all islands.

Connectivity into the Cable System

The educational community now has the critical mass to provide two channels of 24x7 Educational Access programming statewide. It is critical that the UH and DOE have high-quality interconnections to the cable systems. In some cases educational facilities have direct connections to the cable company, and in other cases educational facilities are physically connected via the PEG access organizations’ head-end. There have been occasions in which the technical quality of the video signal on the Educational Access channels has been noticeably lower to cable viewers than that of the P channels programmed by the PEG access organization themselves, and we have had complaints about PEG access organization “bugs” superimposed over the educational programming we provide. Education needs continued
connectivity into the cable systems on all islands, engineered in as direct and high-quality a manner as possible.

Allocation of Financial Resources for Educational Programming

At various times, various of the PEG access organizations have taken the position that allocation of resources to the DOE and UH for E access programming is a lower priority for use of PEG programming funds than P access programming. The two smallest PEG access organizations have no tradition of providing any PEG programming funds to accredited educational institutions to produce Educational Access programming. The two larger access organizations have in various years proposed or provided funding that ranges from 0% to 40% of the overall PEG revenues to support E access programming by accredited education.

Several years into Olelo’s existence UH and DOE were notified by Olelo that PEG funding for E programming would be phased out completely. This caused significant concern and resulted in a dispute that became fairly public. The current agreement for Olelo to provide 25% of the PEG revenues to the Hawaii Educational Networking Consortium (a consortium of UH, DOE and HAIS) for E access programming was memorialized in the franchise agreement by DCCA after a particularly contentious set of discussions that even involved legislative proposals and hearings. More recently, Akaku has terminated funding for E programming by the UH and DOE on Maui.

The general rationale behind this position is that the DOE and UH should get money for E programming from the State, but that P programming has no other obvious source of support. From the perspective of the educational community, not only are State funds shrinking every year, but we believe that PEG funds were intended to support all of P, E and G, not just the P access programming which is the primary focus of most of the PEG access organizations. The tone and substance of these discussions changes over time based on the leadership of the PEG access organizations, the membership on their boards, and the positions of the DCCA administration and the legislature.

Some of the allocations for E programming and associated rationales that have been proposed in the past are:

- 40% of PEG resources -- since E programs 2 of the 5 channels
- 33% of PEG resources -- since E is 1/3 of PEG
- 25% of PEG resources – since HENC and Olelo agreed on that percentage in order to end the mutually harmful public bickering
Statement from Education on PEG Access Issues

There have also been discussions as to whether the smaller PEG access organizations should be absolved of responsibility for funding E since they do not have the same critical mass as the larger PEG access organizations, or whether the Oahu fees over the current “cap” should be assigned to support Educational Access on other islands.

The consistent position of Hawaii’s educational community on this matter is that E is a critical component of PEG and a predictable portion of PEG funding should be allocated to produce Educational Access programming so that multi-year commitments can be made to our students/viewers. This should be structurally embedded in public policy rather than the result of multiple individual annual negotiations, in order to avoid the contentious and destructive conversations that result from the perception in parts of the PEG community that P is really entitled to all the PEG resources and that whatever is allocated to E represents an unfair taking of “their resources.”

Institutional Network (I-Net)

One of the most important aspects of the cable franchise agreements for education is not part of the PEG provisions at all. Public education in Hawaii has developed an extraordinary telecommunications capability through the Institutional Network (I-Net) provisions of the current cable franchise agreements. The foresight of DCCA and the willingness of the cable operator to participate have been essential to the basic operation of the UH and the DOE. The I-Net provides dark fiber on each island for shared use by the UH and DOE with our third partner, the State of Hawaii as represented by the DAGS Information and Communication Services Division (ICSD). In addition, the cable operator is required to provide access to its interisland fiber capacity.

The three public partners, UH, DOE and ICSD, work together closely on the technical and financial requirements to leverage the I-Net capabilities made available. For UH, this capacity connects all our campuses and education centers to support distance learning for the public, access to library information, student registration processes, email between faculty and students, and all the general telecommunications needs of a public institution distributed throughout the State. For the DOE, the fiber provided through the I-Net ties complexes and major sites together into a statewide network that supports teaching and administration. In addition, many schools benefit from access to cable modem technology provided by the cable operator. This helped Hawaii become the first state in the country with high-speed Internet access to every public school in the State.
The I-Net also ties together the State, UH and DOE for inter-institutional activities. For example, all the State’s Internet access is supported by its I-Net connection to UH, which serves as the State’s Internet Service Provider. Other routine data exchanges also utilize this capability.

In addition, it should be noted that the cable operator provides a physically distinct I-Net for the County on each island. This is an example of how the State franchising authority has supported the needs of the Counties.

While not raised as one of the issues for discussion, there could be enormous negative impact on the delivery of educational services to the State if the franchise framework or agreements were changed to eliminate this provision. For example, if cable franchising were assigned to the counties it is possible that public education might lose the I-Net capability on some or all islands, or between the islands. And in at least one case the PEG access organization has asserted some interest in playing a greater role in this non-PEG aspect of the franchise agreement.

Continued availability of the I-Net, both on each island and inter-island, is essential for public education. At a time when budgets are being cut throughout the public sector, the cost to replace this capability would be literally millions of dollars per year.

Education’s Statewide Perspective

Hawaii’s educational community has leveraged the cable television franchise agreements with a statewide perspective to help the residents of all islands. The Educational Access programming produced on each island is available on every other island if it is of general interest and applicability.

Even without a heavy-handed mandate to share PEG resources between islands, as has been proposed by some, Education has long been providing the benefits of the greater availability of PEG resources on Oahu to the residents of all islands. Similarly, the I-Net has been developed with a consistent technical architecture so that its advanced capabilities can support educational connectivity on the major islands and between them.

Education’s statewide perspective extends beyond the E mission of Hawaii’s educational institutions. UH provides HITS capacity during the legislative session to make legislative hearings available to cable viewers throughout on all islands, including on a live basis as of the 2003 Legislative session. This is something that cannot be accomplished with a purely county-based approach.