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To: The Honorable Representative Clift Tsuji, Chair
and Members of the House Committee on Economic Development and Business

Date: Friday, March 22, 2013

Time: 10:30 a.m.

Place: Conference Room 312, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.C.R. No. 88/H.R. No. 68 Requesting the Department of Commerce and Consumer Affairs and the Department of Taxation to Conduct a Study Examining the Parity of the Current Tax Fee Structure Imposed on Video Programming Service Providers.

The Department of Taxation (Department) **appreciates the intent but has concerns** regarding H.C.R 88/H.R. 68, and offers the following comments for the Committee's consideration.

H.C.R 88/H.R. 68 requests the Department, along with the Department of Commerce and Consumer Affairs, to conduct a study to review the parity of the current tax and fee structure applicable to all video programming service providers.

The Department suggests clarifying this resolution to clearly define "video programming service provider." For example, the Department believes the term could be defined narrowly to include merely cable television providers and satellite television providers, or defined broadly to also include home video rental stores, home video rental streaming websites, or any website that displays any video content. What constitutes tax and fee parity may vary depending on the size and content of the group for which parity is wished.

Thank you for the opportunity to provide comments.



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TO THE HOUSE COMMITTEE ON
ECONOMIC DEVELOPMENT & BUSINESS

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Date: Friday, March 22, 2013
Time: 10:30 a.m.

TESTIMONY ON H.C.R. 88/H.R. 68 - REQUESTING THE DEPARTMENT OF
COMMERCE AND CONSUMER AFFAIRS AND THE DEPARTMENT OF TAXATION
TO CONDUCT A STUDY EXAMINING THE PARITY OF THE CURRENT TAX FEE
STRUCTURE IMPOSED ON VIDEO PROGRAMMING SERVICE PROVIDERS

TO THE HONORABLE CLIFF TSUJI, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Donn Yabusaki. I am the Acting Administrator of the Cable
Television Division of the Department of Commerce and Consumer Affairs
("Department"). The Department would like to offer comments on this resolution.

Cable franchise fees are currently paid by wireline cable television operators that
have been issued a cable television franchise in the State of Hawaii. The Department
requires cable television operators to pay franchise fees as compensation for the use of
public rights of ways. Franchise fees are subject to federal regulation as well as state
regulation. The Department, as the local franchising authority, has oversight over the
collection of franchise fees from cable television operators.

The Department does not have the authority to impose franchise fees on video
programming service providers who have not been issued a cable television franchise in
Hawaii. Because the Department's authority is limited and does not extend to all video
programming service providers, the Department is without knowledge as to all video
programming service providers that provide service to Hawaii customers. This list could
potentially be considerable, and the Department suggests that the wireline cable
operators who are most concerned about parity are better able to identify their
competitors.

Because this resolution calls for a study of the current tax fee structure imposed on video programming service providers, DCCA is also not in a position to provide input on any proposed tax structure, and defers to the Department of Taxation on these matters.

Thank you for the opportunity to provide written comments on this measure.

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The Honorable Clift Tsuji, Chair
The Honorable Gene Ward, Vice Chair
House Committee on Economic Development & Business

RE: HCR 88/HR 68 – REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS AND THE DEPARTMENT OF TAXATION TO CONDUCT A STUDY EXAMINING THE PARITY OF THE CURRENT TAX FEE STRUCTURE IMPOSED ON VIDEO PROGRAMMING SERVICE PROVIDERS
March 22, 2013 – 10:30 AM; Hawaii State Capitol, Room 312

Aloha Chair Tsuji, Vice Chair Ward and members of the committee,

Oceanic Time Warner Cable (OTWC) would like to respectfully submit comments on HCR 88/HR 68 that requests the Department of Commerce and Consumer Affairs and Department of Taxation to conduct a study on the structure of taxes and fees imposed on video programming service providers.

OTWC provides a diverse selection of entertainment and information services, including video programming services, to households and businesses statewide. We are a Hawaii-grown company that currently employs over 900 highly-trained individuals.

As a local company doing business in the state since 1969, we have seen a dramatic change in recent years in how video programming services can be delivered to our customers. And we expect to see continued innovation in the delivery of video programming services. These new forms of video programming service delivery have emerged as our competitors, making the video marketplace increasingly competitive. However, due to laws enacted long before this competitive marketplace was envisioned, these new video programming service providers are not wholly captured within the state's tax and fee structure. There exists a significant discrepancy between the amount of taxes and fees our customers pay as compared with those taxes and fees that customers of these other video service providers pay. Quite simply, like services should be subject to the same taxes and fees. That is not the case with video programming services today in Hawaii. Therefore, we believe that this issue should be reviewed.

Currently, at least ten other states have recognized this discrepancy. These states have acted upon the uneven tax and fee structure to address the parity issue - thus insuring that the state is not picking "winners" and "losers" through tax policy and more importantly, that customers have a "tax neutral" choice of video programming service options.

Thank you for the opportunity to provide comments on HCR 88/HR 68.