

Adopted May 6, 1985  
Revised September 20, 2004

## **Statement of Policy on Public Access**

### I. Introduction

#### A. Organization Background

Montgomery Community Television (MCT), an independent non-profit organization, was established in 1984 to oversee the control, supervision, and management of the community access cable television channels and related production facilities. The purpose of community access cable is to provide a medium for individuals, organizations and institutions to communicate to Montgomery County residents via non-commercial channels on the cable television system.

#### B. Goals

MCT has the following goals:

1. Developing and establishing policies with respect to locally produced cable programming to be presented by means of any cable television system in Montgomery County.
2. Acting as a vehicle for coordinating the public, educational, and governmental access programming to be presented over any cable television system in Montgomery County, Maryland.
3. Promoting and supporting the participation of organizations and individuals in Montgomery County in creating programming concerning people, events, and issues of interest to the County.
4. Encouraging public access programming that serves viewers as well as program producers by promoting high production quality, responsible and diverse points of view, balance in subject matter, and regular scheduling.
5. Supporting government access programming as provided for in Montgomery County's annual Cable Communication Plan.

### C. Responsibility for policy making on community access

MCT is governed by a Board of Directors composed of 26 voting members. The Executive Director of MCT prepares and presents recommendations on policy to the Board. Final approval of all policy matters rests with the Board. It is the responsibility of the Executive Director to implement the established policies. The Executive Director may, upon documented special circumstances, suspend established policies on a one-time basis following consultation with the President or an appropriate member of the Executive Committee of the Board.

MCT is open to comments and suggestions from groups and individuals with regard to safeguarding the public interest in the establishment of policies and procedures for use of MCT's public access cable channels and related productions facilities.

Additional policies for use of the MCT facilities and public access channels may be adopted and set forth by the board in an effort to meet future needs and better serve the public interest.

No actions may be taken under these policies which discriminate against any individual or organization on the basis of color, gender, age, physical disability, religion, ethnic background, political persuasion, national origin, or sexual orientation.

## II. Eligibility

Policy Statement: Use of the MCT facilities and channels are available to residents of Montgomery County. Under certain circumstances, non-county residents may also use the facilities. MCT may refuse access to eligible users who interfere with the orderly conduct of agency activities.

One becomes eligible by qualifying according to the following criteria.

### A. Residency

A user who intends to create content by serving as producer or intends to submit completed programs must be an individual, organization, institution or business that:

1. has a legal address in Montgomery County; or
2. has a legal address within the service area of the cable television provider to Montgomery County.

### B. Age

Due to contractual agreements required between the user and MCT, users must be:

1. 18 years or older; or

2. a minor acting under the supervision of an adult who is willing to take full responsibility for the minor's actions

### C. User conduct

Exceptions to the above criteria may be made and MCT reserves the right to refuse access to its facilities when a user:

1. appears to be under the influence of alcohol or illegal drugs;
2. owes money to MCT;
3. repeatedly violates policies and procedures established by MCT;
4. deliberately presents misleading information to MCT;
5. contributes to or creates a hostile or intimidating environment for users, volunteers or staff

## III. Certification

Policy Statement: Certification is the process whereby eligible users can learn or demonstrate their ability in production techniques. Certification should be simple and brief and is a prerequisite to gaining full access to production facilities. The intent is to identify and foster competent users and protect equipment.

### A. Training & Certification

MCT and its agents conduct workshops and training sessions to instruct eligible individuals in the required areas of skill. Successful completion of the workshop is determined through a testing procedure that results in certification. Certification begins immediately upon successful testing. Only members who are currently certified or engaged in training may use MCT's facilities.

### B. Equivalency

As part of the certification process, equivalency testing is available to those who can demonstrate previous experience in the various aspects of television production.

### C. Decertification

Any user who demonstrates an inability to perform in a specific area, uses the equipment in a negligent manner, or violates policies or procedures, will be decertified.

### D. Suspension

Users who fail to act within established policies and procedures may be suspended.

## E. Recertification

A decertified user may request recertification testing providing s/he is not under suspension.

## IV. Program Content

Policy Statement: MCT will seek to allow the greatest possible latitude of freedom of speech of a non-commercial nature consistent with legal constraints and community standards. No part of the program may contain any solicitation for funds or other property of value. Program producers may obtain support funding to cover producer-incurred expenses.

Residents of Montgomery County may submit a program for presentation on MCT's channels regardless of where it was produced. Request for cablecast time on the MCT cable channels may not be rejected because of content of the program except as provided in the following subsections.

### A. Illegal conduct

The MCT cable channels may not be used for illegal purposes. Users responsible for illegal programming or programming containing information intended to defraud the viewer may forfeit their right to use MCT facilities and to obtain time on the MCT cable channels.

Accordingly, there shall be no:

1. Information concerning any lottery, gift enterprise or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of prizes drawn or awarded by means of any such lottery, gift enterprise or scheme, whether said list contains any part or all of such prizes;
2. Material which is intended to defraud the viewer or designed to obtain money by false or fraudulent pretenses, representations or promises;
3. Obscene matter as defined by law; or
4. Libelous or slanderous matter as defined by law.

### B. Advertising

Community access programming shall be of a non-commercial nature. Accordingly, there shall be no:

1. Advertising materials whose primary purpose is designed to promote the sale of commercial products, trade or services;
2. Material directly used or designed for use to solicit funds, support, or other property of value.
3. Audio or visual reference to any business, service, or product for which any economic consideration was received by anyone in exchange for the

display, announcement and/or reference to such business, enterprise, product or service, with the exception of sponsorship as stated in Section IV(D).

#### C. Adult content

MCT will notify viewers when adult program content is likely to occur on MCT's channels. It is the responsibility of the presenter to identify programs that contain material intended for adults.

#### D. Sponsorship

Users may obtain financial support from individuals, organizations or businesses to help cover the cost of creating programs. Financial supporters of the program must be identified on screen using a standard MCT format at the beginning and conclusion of the program.

### V. Program Proposal

Policy Statement: Any eligible user who desires to use the production facilities must submit a program proposal designed to communicate the intent and requirements of a production. The program proposal will serve as a preliminary application for use of the production facilities and shall

1. demonstrate the ability of a user to complete a program.
2. disclose sources of funding
3. resources required in the course of production

Approval of a proposal is based on technical feasibility and complete documentation, not on program content (with the exception of content restrictions as stated in Section IV). A program proposal may be rejected on the basis of the user's failure to successfully complete a previously authorized proposal.

### VI. Facilities Usage

Policy Statement: Requests for facilities are accepted when a certified user has an approved program proposal. Facility reservations will be granted on a non-discriminatory basis. MCT is responsible for determining allocation of equipment or resources.

### VII. Liability

The user accepts full legal and financial responsibility while the equipment is in his/her use and/or possession. The user must reimburse MCT for the cost of repair or

replacement as determined by MCT. MCT makes every effort to assure availability and proper operation of facilities. MCT, however, cannot be held liable for any losses or damages due to unavailable or inoperative equipment. The user must agree to hold harmless cable operators that distribute MCT's programming, MCT and its designated agents from any and all liability or other injury, including reasonable costs of defending claims or litigation arising from or in connection with use of MCT's equipment and resources.

#### VIII. Technical Content

Policy Statement: MCT and its designated agents will establish minimum technical standards for signal distribution on MCT's cable channels and will assure that facilities provide for minimum technical standards. It is the user's responsibility to ensure that programming submitted for playback on the MCT cable channels adhere to technical standards established by MCT and its designated agents.

#### IX. Program Scheduling

Policy Statement: MCT and its designated agents assume authority and responsibility for scheduling cablecast time on the MCT public access cable channels. Programs will be scheduled in a manner advantageous to both user and the viewing audience as determined by MCT.

#### X. Program Ownership

Policy Statement: Users must agree to contract terms established by MCT including specifications on retention of copyright, distribution rights, and full liability of the user, and use rights, production credit and indemnification terms for MCT.

##### A. Copyright

When an eligible user applies for facility use, the individual or the responsible officer requesting organization shall enter into a contractual agreement to include the following items:

1. The respective creators of program elements retain full copyright ownership. Moreover, producers are encouraged to distribute their works as widely as possible.
2. The facilities will be used for the primary purpose of creating programming materials to be distributed via MCT's cable channels and any other subsequently developed method of delivery.
3. MCT will not commercially distribute the program.
4. In lieu of payment for facilities, MCT will be permitted to cablecast the program for an unlimited number of showings for a three-year period, on

a non-exclusive basis, except when negotiated otherwise. MCT will consider written requests for the withdrawal of the program and, assuming approval, the program will be ineligible for future cablecasts and distribution.

5. The program may be duplicated by MCT only for the purpose of cablecast and to take excerpts, totaling no more than five minutes, for use in MCT samplers. Exceptions will be made when granted written permission by the copyright holders or when required by a regulatory body or court of appropriate jurisdiction.
6. All programs or any portion of a program created using MCT facilities must contain a credited reference to such facilities and that credit must remain part of any future distribution arrangements.
7. MCT requests notification in those situations where the producer has secured other distribution of a program produced with MCT assistance.

#### B. Copyright clearance

When a user submits a completed program and requests cablecast time, the user is totally responsible for obtaining all necessary clearances, licenses and permits from broadcast stations, networks, sponsors, music licensing organizations, performers' representatives, and without limitation from the foregoing, any and all other persons (natural and otherwise) as may be necessary to transmit the program over the MCT public access cable channels. If a user submits a pre-recorded program for which s/he does not hold copyright ownership, the user must submit proof of distribution arrangement.

#### C. Indemnification

The user must agree to indemnify and hold harmless cable operators serving Montgomery County and MCT and their designated agents, employees and representatives from any and all liability and injury (including reasonable costs of defending claims of litigation) arising from or in connection with claims for failure to comply with applicable laws, rules, regulations or other requirements of local, state or federal authorities; for claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; for unauthorized use of any trademark, trade name or service mark; for breach of contractual or other obligations owing to third parties by the user and for any other injury or damage, in law or equity, where the claims result from the user's utilization of the MCT facilities or cable channels.

#### D. Dispute resolution

Disputes that arise as a result of the user's program being cablecast are referred to the user for resolution.

#### E. Distribution

The user accepts full responsibility for distribution of the program to sources other than MCT.

F. Public disclosure

The user who submits a program for presentation on the MCT public access channels must make public disclosure of information relating to the program's creator, copyright owner, location of the program's creation, program funding sources and the identity of the user. MCT may require on-screen credit of such information.

XI. Appeal Procedure

Policy Statement: MCT will establish an appeals process to be followed by an individual or organization who feels that MCT's decisions have unfairly or improperly denied the privileges established under this policy.

XII. Record Keeping

Policy Statement: MCT shall establish and maintain an effective record keeping system. Files maintained and available for public inspection shall include program proposals, program logs, and requests for cablecast time.