

CITY CLERK

SUGGESTED AGENDA

Meeting - March 30, 1981

BOARD OF SUPERVISORS
AND
CITY COUNCIL

Sacramento, California

In addition to the continued review of the ordinance, several reports are scheduled for discussion. Following is a suggested order for discussion:

1. Minority Concerns. The City Attorney has prepared an opinion dealing with several questions related to minority involvement. It is hoped that basic policy decisions can be reached tonight.

2. Purchase Value. The consultant has prepared alternative language for ordinance provisions relating to value of the system if purchased.

3. Dual Cable. In response to a request, the consultant has developed information on the pros and cons and the cost of a dual cable system.

4. Unfair Competition. Councilman Pope had asked for further investigation relative to regulating the franchisee in areas where the cable operator might have an unfair competitive advantage. At the March 23, 1981, meeting a request was made for a clarification of these concerns and the approach to addressing them.

5. Ordinance. The following sections still need to be reviewed:

Article 4d--Franchise Fees and Rates

Article 4e--Security-Indemnity-Insurance

Article 5a--Assignments

Article 5b--Remedies

6. Written Comments. Following are written comments that should be officially received and made part of the public record:

a. Utilities. A joint committee of local utility companies has submitted comments on the ordinance.

b. Charles Koteen. He is requesting carriage of low-power television stations on cable.

c. Grand Jury. The Grand Jury has endorsed the Educational Consortium's position paper.

d. Common Cause. Four specific recommendations are included: advocate registration; log of meetings; disclosure; and below market investments.

AGENDA/SYNOPSIS

Cable Television

Meeting Date MARCH 30, 1981; 7:30 PM
 Location: City Hall, 915 I Street, 2nd Floor, Council Chambers

SYNOPSIS OF THE SPECIAL MEETING OF THE SACRAMENTO CITY COUNCIL AND THE SACRAMENTO COUNTY BOARD OF SUPERVISORS ON THE ISSUE OF CABLE TELEVISION AND THE PROPOSED CABLE TELEVISION ORDINANCE.

CABLE TELEVISION HEARING

1. Various matters re: Minority Concerns:
 - A. Agree in concept regarding minimum requirements on contractors and subcontractors; request that appropriate language be prepared and a time schedule be provided. (#1 of Legal Opinion)
 - B. Request a more detailed report on minority ownership; legal
 - C. Request draft language on sanctions for failure to comply (2b and 2c of Legal Opinion)

2. Dual Cable:
 - A. Accept staff recommendation to request dual system and require institutional system.

3. Set Purchase Value for hearing on 4-27-81
 - A. Request for report on concept of cooperative study

4. Unfair Competition:
 - A. Adopt staff recommendation; adopt time to be set to receive comments on specific issue of unfair competition; language to be included for absolute prohibition of repair and sale of TV's; concept of equal and fair rates, reserve right of Cable TV Commission to regulate inflation.
 - B. Language on Unfair Competition due by 4-27-81; staff to have to Council and Board one week prior to consideration and comments to be solicited from operators prior to 4-27-81.

5. Ordinance - Articles 4d, 4e, 5a, and 5b

VOTING RECORD LEGEND:

VOTING RECORD REFLECTS FINAL VOTE OF COUNCIL.

MOV: MOVED ABST: ABSTAIN
 SEC: SECOND ABS: ABSENT
 M — MAYOR ISENBERG
 D1 — ROBERTS D5 — THOMPSON
 D2 — FISHER D6 — CONNELLY
 D3 — POPE D7 — HOEBER
 D4 — RUDIN D8 — ROBIE

RECOMMENDATIONS OF STAFF/AGENCY	COUNCIL ACTION	VOTING RECORD
	A. ADOPTED	MOV:D5 SEC:M AYES: UNANIMOUS ABS:D1,D8 MOV: SHEEDY SEC: COLLIN AYES: UNANIMOUS
	B. ADOPTED	MOV:D7 SEC:D5 BY CONSENSUS ABS: D1, D8 MOV: SHEEDY SEC: JOHNSON BY CONSENSUS
	C. ADOPTED	MOV:D7 SEC:D3 BY CONSENSUS MOV: SHEEDY SEC: COLLIN BY CONSENSUS
	ADOPTED	MOV:M SEC:D3 AYES: UNANIMOUS ABS: D1,D8 MOV:SHEEDY SEC:COLLIN AYES: UNANIMOUS
	ADOPTED	MOV:D6 SEC:D3 BY CONSENSUS MOV: JOHNSON SEC: COLLIN BY CONSENSUS
	A. ADOPTED	MOV:D5 SEC:D3 BY CONSENSUS BOARD: BY CONSENSUS
	B. REFERRED TO CITY/COUNTY STAFF	B. BY CONSENSUS
	CONTINUED TO 4-20-81	BY CONSENSUS

COUNTY OF SACRAMENTO
CALIFORNIA

March 30, 1981

To: Board of Supervisors
County of Sacramento

City Council
City of Sacramento

From: Howard Gan

Subject : PURCHASE OF SYSTEM BY CITY/COUNTY

The object of our proposed buy-back provision is to set up a process whereby an acceptable and fair method of determining the value of the cable system can be established if the franchisor wishes to purchase the system. Determining the "value" of the cable system either upon natural expiration of the franchise period or upon termination of the franchise is difficult because "value" depends a great deal on perspective. The franchisor tends to regard a 15-year franchise as an opportunity for the company to make a great deal of money for 15 years. Some cities believe that after having been given this opportunity to make money, the cable operator should be ready to hand over the cable system to the city at book (depreciated) value, akin to the value of a used car. (Book value is the undepreciated portion of the original cost of the cable system.) In reality, no profit will be made on the system for approximately the first half of the franchise term (7-8 years).

The franchisee, on the other hand, knows that a going cable system is worth a great deal of money in the open market. At the present time, many cable systems are being purchased at ten times operating income.

A cable system may have a depreciated book value of only \$5 million at the end of the franchise term but be worth \$50 million on the market, providing it can renew its franchise for another 10 or 15 years. But clearly without a valid franchise permitting it to operate, a cable system would not be worth more than the scrap value of the materials. An existing cable system could be worth the value of its replacement cost to the succeeding cable operator.

The approach to valuation of the system upon normal expiration of the term attempts to establish a value between the book value as a minimum, and the replacement value as a maximum. We do not believe the franchisor should have to pay fair market value because such a price would include both (a) a substantial amount of money attributable to the value of the franchise itself (which the franchisor owned to begin with and has essentially given away) and (b) a high value attributable to future/speculative revenues the system may earn in the future. We would note that the market value for cable systems has increased enormously over the past five years based upon speculative future revenues and increased demand for a limited supply of cable systems available.

We believe it is appropriate to retain a provision permitting purchase of the system by the City/County upon termination of the franchise (as compared to normal expiration) at depreciated book value. This would in effect be a punishment for breach of the franchise agreement.

Upon normal expiration of the franchise, at the end of the fifteen year term, we would recommend a provision which permits purchase by the franchisor at a price which falls somewhere between depreciated book value (at the low end) and replacement value (at the high end).

Authority to Purchase System

1. Right to Purchase. In the event the Commission terminates the franchise pursuant to any provisions of this Chapter, or at the normal expiration of the franchise, the Commission shall have the first option, directly or as an intermediary, to purchase the System. The Commission shall have ninety (90) days prior to the effective date of expiration or termination to notify franchisee of the Commission's intent to exercise the option to purchase stated herein.

2. Valuation.

- a) In the event the franchise is terminated for cause, the value of the system shall be solely based on the book value of the tangible assets of the system.

Book value is defined as the original or historical cost of the assets less accumulated depreciation.

- b) In the event the franchise expires at the end of the normal term, the Commission may purchase the system at a value to be determined by an independent appraiser appointed by the Commission.

No value shall be assigned to the franchise itself, the franchise agreement or any right, privilege or expectancy arising out of the privilege to transact business under the franchise and the franchise agreement. Nor shall any value be allowed for any increase in value arising out of any expectation of future system revenue beyond the termination date of the franchise.

- c) Valuation as defined in 2 (a) above shall be determined by audit of system assets pursuant to generally accepted auditing principles, and shall be performed by a Certified Public Accounting Firm selected by the Commission at franchisee's expense.

3. Date of Valuation. The date of valuation shall be the effective date of expiration or termination of the franchise agreement.

4. Transfer to Commission. Upon exercise of the Commission's option to purchase and written notice of such action upon franchisee, franchisee shall, immediately upon payment of the purchase price by the Commission, transfer to the Commission possession and legal title to all system facilities and property, both real and personal, free from any and all liens and encumbrances not agreed to be assumed by the Commission in lieu of a portion of the purchase price and franchisee shall execute such warranty deeds or other instruments of conveyance to the Commission as shall be necessary to effectuate this transfer.

(b) Suspension of Terms. Specific provisions of this ordinance, rules and regulations, and contract terms pursuant to this ordinance may be suspended for limited periods when required for specific research and development project as approved by the city. No suspension, however, shall result in indefinite suspension of such provisions or modification of any terms, conditions, rights, or other rules or regulations pursuant to this ordinance without specific approval by the Common Council in public hearing. In no case, not foregoing the above, shall the rights of individuals hereunder prescribed by in any manner abridged.

(7) CONTINUITY OF SERVICE MANDATORY

(a) Continuity. It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to over-build, rebuild, modify, or sell the system, or the city gives notice of intent to terminate or fails to renew this franchise, the Grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances.

In the event of a change of franchisee, or in the event a new operator acquires the system, the Grantee shall cooperate with the city and new franchisee or operator in maintaining continuity of service to all subscribers. During such period, Grantee shall be entitled to the revenues for any period during which it operates the system, and shall be entitled to reasonable costs for its services when it no longer operates the system.

(b) Failure to Provide Continuity. In the event Grantee fails to operate the system for seven (7) consecutive days without prior approval of the city or without just cause, the city may, at its option, operate the system or designate an operator until such time as Grantee restores service under conditions acceptable to the city or a permanent operator is selected. If the city is required to fulfill this obligation for the Grantee, the Grantee shall reimburse the city for all reasonable costs or damages in excess of revenues from the system received by the city that are the result of the Grantee's failure to perform.

(8) GRANTEE RULES AND REGULATIONS

The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations. Such rules, regulations, terms and conditions shall be submitted to the city for its review and city approval is required prior to their becoming effective.

99-10. Rights Reserved to the Grantor.

(1) RIGHT TO PURCHASE OF THE SYSTEM BY CITY.

(a) Rights to Purchase. In the event the Grantee forfeits and the City terminates this franchise pursuant to provisions of this ordinance, or at the

normal expiration of the franchise term, the City shall have the right, directly or as an intermediary, to purchase the franchised cable communications system. Purchase price shall be based upon the value of the system determined pursuant to this section.

(b) Date of Valuation. The date of valuation shall be no earlier than the day following the date of expiration or termination and no later than the date the City makes a fair and reasonable offer for the system or the date of transfer of ownership, whichever occurs first.

(c) Transfer to City. Upon exercise of this option and the payment of the above sum by the City and its service of official notice of such action upon the Grantee, the Grantee shall immediately transfer to the City possession and title to all facilities and property, real and personal, of the cable communications system, free from any and all liens and encumbrances not agreed to be assumed by the City in lieu of some portion of the purchase price set forth above; and the Grantee shall execute such warranty deeds or other instruments of conveyance to the City as shall be necessary for this purpose.

(d) System Valuation. The value of the cable system shall be determined by a qualified appraiser appointed by the City. That appraiser shall determine the current worth of the assets based upon what a willing buyer would pay a willing seller for the assets involved. Under no circumstances shall the value under this section be less than the net book value of the assets, nor greater than the current replacement cost of the system.

No value shall be assigned to either the franchise itself or any right, privilege, or expectancy arising to the Grantee out of the right to transact business under the franchise, and particularly no value shall be allowed for any increase in value arising out of any expectation of cable communications system revenues beyond the forfeiture and termination date or expiration date, whichever is sooner.

(e) Upon receipt of notice of the City's intent to purchase the system at the value established in (d) above, the Grantee shall have thirty (30) days within which to accept that valuation as the purchase price of the system. In the event that purchase price is not acceptable, the parties shall have one hundred twenty (120) days in which to negotiate an acceptable purchase price.

(f) In the event the City and Grantee are unable to agree upon the value of the cable communications system within the time limits set forth above, either party may require by written notice to the other that the value of cable communications system be submitted to arbitration in the following manner:

1. The City and the Grantee shall each within fifteen (15) days after such written notice select an arbitrator who shall be a disinterested person with reasonable knowledge and experience relative to the subject to be arbitrated. The two arbitrators thus selected shall immediately thereafter select a third arbitrator who shall likewise be a disinterested person having reasonable knowledge and experience relative to the subject to be arbitrated.
2. Within thirty (30) days after appointment of all arbitrators and upon ten (10) days' written notice to the parties, the panel of arbitrators shall commence a hearing on the issue of valuation and shall receive all relevant information from the parties.

3. The hearing shall be recorded and may be transcribed at the request of either party. All hearing proceedings, debate and deliberation shall be open to the public and at such times and places as contained in the notice or as thereafter publicly stated in the order to adjourn, except that if two arbitrators agree, debate and deliberation may be held in closed session.
4. The value of the system as determined by the arbitration panel shall be the current worth of the assets based upon what a willing buyer will pay a willing seller. Under no circumstances shall the value established by the arbitration panel be less than the net book value of the assets nor greater than the current replacement cost of the system as determined by the appraiser appointed under (d) above.
5. Within thirty (30) days after the close of the hearings, the panel of arbitrators shall prepare findings and decision agreed upon by a majority of the panel which shall be filed with the City and served by mail upon the Grantee. Unless the parties extend by mutual agreement the time which the panel of arbitrators has to make a decision, the proceedings shall become null and void and shall be started anew.
6. The decision of the panel regarding the value of the system shall be final and binding upon the parties.
7. Either party may seek judicial relief in the following circumstances:
 - a. A party fails to select an arbitrator;
 - b. The arbitrators fail to select a third arbitrator;
 - c. One or more arbitrators is unqualified;
 - d. Designated time limits have been exceeded;
 - e. The panel has not proceeded expeditiously;
 - f. The decision was procured by corruption, fraud or undue means;
 - g. There was evident partiality on the part of one or more of the arbitrators;
 - h. The arbitration panel exceeded its authority hereunder;
 - i. Based upon the record, the panel abused its discretion.
8. In the event a court of competent jurisdiction determines that judicial relief is appropriate to the circumstances set forth in 7. above, the court in its discretion may order the arbitration procedure repeated and issue findings, orders and directions.
9. The expenses of the arbitrators shall be borne by the parties and the expenses of the third arbitrator and those expenses incurred by the panel as a whole shall be borne equally by the parties.

(g) Upon receipt of the decision of the arbitration panel, the City shall have thirty (30) days in which to notify the Grantee of its intent to exercise its option to purchase the system. The purchase price shall be the value of the system as determined by the arbitration panel.

(2) RIGHT OF INSPECTION OF RECORDS

There shall be kept in the Grantor's office a separate record for the franchise, which record shall show the things hereafter set forth. The Grantee shall provide such information in such form as may be required by the Grantor for said records.

(a) The true and entire cost of construction of equipment, of maintenance and of the administration and operation thereof; the amount of stock issued, if any; the amount of cash paid in, the number and par value of shares, the amount and character of indebtedness, if any; the rate of taxes, the dividends declared; the character and amount of all fixed charges; the allowance, if any, for interest, for wear and tear or depreciation; all amounts and sources of income.

(b) The amount collected annually from other users of service and the character and extent of the service rendered therefor to them.

The books and records kept by the Grantor shall be open to public examination at any time during the business hours of the Grantor's office. The information, in addition to any further data which may be required by the Grantor, shall be furnished by the Grantee to the Grantor upon request, and at the Grantee's own cost and expense.

The Grantor shall have the right to inspect all books, records, maps, plans, income tax returns, financial statements, Affirmative Action Plan and other like material of the Grantee at any time during normal business hours.

(3) RIGHT OF INSPECTION OF CONSTRUCTION

The Grantor shall have the right to inspect all construction or installation work performed subject to the provisions of the franchise and to make such tests as it shall find necessary to ensure compliance with the terms of this franchise and other pertinent provisions of law.

(4) RIGHT OF INTERVENTION

The Grantor shall have the right of intervention in any suit or proceeding to which the Grantee is party, and the Grantee shall not oppose such intervention by the Grantor.

(5) RIGHT TO REQUIRE REMOVAL OF PROPERTY

At the expiration of the term for which the franchise is granted, or upon its revocation or expiration, as provided for herein, the Grantor shall have the right to require the Grantee to remove, at its own expense, all portions of the Cable Communications System required by public necessity from all streets and public ways within the city.

NETWORK DISTRIBUTION: R/W - CATV ord. - Sacramento County

March 18, 1981

William R. Freeman
Asst. County Executive
County of Sacramento
700 H Street, Room 7650
Sacramento, Ca. 95814

Mr. Freeman:

As you requested in our meeting of March 6, 1981 the following are our comments on Sub. Chapter 4 of the CATV Franchise Ordinance.

Reference to "Bell System Code of Pole Construction", page 39, paragraph _____ Technical Standards a. should be deleted. Please substitute the following:

"California Public Utility Commissions General Orders 95,
112-d and 128"

The General Orders are the minimum standards followed by the telephone, power and gas utilities in Sacramento County. In addition we would require adherence to our construction practices and safety standards.

Participation in several of the standing committees and organizations to which the municipal agencies and utilities belong would expedite work on the project. Membership in the American Public Works Association Co-ordinating Committee, Joint Trench Committee and Underground Service Alert - (U.S.A.) at the operational level is vital to utility co-ordination. We suggest amending page 40, paragraph _____ Technical standards d. to add:

"in close co-ordination with public and private utilities serving Sacramento County following accepted construction procedures and practices and working through existing committees and organizations."

We will cooperate with a franchisee for the joint use of poles, conduit and trench space. Our major area of concern remains the time frame in which the franchising authority may require for the designated service areas to receive basic service. The coordination with the utilities in providing that service could involve attaching CATV facilities to 100,000 or more existing poles. It may be necessary for the power and telephone utilities to rearrange our wires and cables to accomodate CATV on a majority of the poles. In some cases poles and anchors will have to be replaced. There is the additional problem of existing areas being served by underground facilities.

We will make every effort to co-ordinate with the franchisee to meet the time constraints of Article 4-b as presently written. In order for the utilities to do their part in meeting the time frames it will require a consistent and orderly sequence of applications from the franchisee to occupy existing utility facilities.

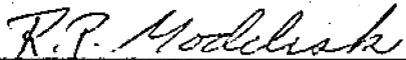
An interval of six months after the franchise is awarded for the time frames to start would be helpful. This would allow for execution of agreements, planning, scheduling of applications, establishing priorities and sequence of work and committing the work force and equipment to the project.

The utility companies must be assured that the franchisee will keep an adequate work force and equipment on hand to maintain its facilities in emergency situations which require joint operations.

S.M.U.D. is concerned that the system will have the capability to provide load control circuitry for conservation programs.

Prior to the approval by the franchise authority of any future transfer of ownership the buyer should have demonstrated the ability to accept assignment of the various agreements with the utilities.

We would also recommend that representatives of the undersigned firms meet with any prospective bidders in addition to your staff. We will be available to you for any input you wish on this project.



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District Manager
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Sacramento, CA 95826

Charles D. Koteen

*presented
for 3-23-81
Cable TV
meeting*

Visual Productions

2110 K Street, Suite 21
Sacramento, CA 95816
Phone: (916) 441-0611

COUNTY OF SACRAMENTO
BOARD OF SUPERVISORS

'81 MAR 19 P5:04



STATEMENT OF CHARLES D. KOTEEN, AN APPLICANT FOR CHANNEL 67,
SACRAMENTO, TO THE SACRAMENTO CITY COUNCIL AND COUNTY SUPERVISORS
REGARDING CABLE TV FRANCHISING.

City Council Members, County Supervisors:

My name is Chuck Koteen. I am an applicant for a low power television station to serve Sacramento. Low power television is something new. It offers a chance for types of programming which will never be originated on cable or on regular full power television stations.

The Federal Communications Commission just last September enthusiastically stated that low power television stations will be the first new broadcast service in 20 years. These stations can cover a radius of 12 to 15 miles.

About 4,000 applications have already been filed with the FCC, including applications for at least five different channels in Sacramento. I am here to urge you to be sure that the City and County get the benefits of this new specialized service.

But low power television in Sacramento will die in early infancy unless it is given fair treatment in your regulations governing cable television. That treatment requires that any City or County cable franchise must carry low power stations in the area which originate local programming. As you know, the Federal Communications Commission requires that cable systems carry the full power stations in their areas. The FCC has not required the same treatment of the new low power television stations. Undoubtedly this is because the FCC has been withdrawing from cable regulation, announcing that the local communities should do the major regulating through franchises. I urge

you to require that cable systems carry low power television stations along with full power stations. Otherwise low power stations with the necessary equipment and operating cost to originate local programming cannot survive.

What does low power television with local programming offer the Sacramento community, and why would cable's not carrying it kill it off?

Low power television is low cost television. Low power television does not have to compete, could never compete, for the huge general audiences which full power television stations, with their very high overheads, must attract. So low power TV must be innovative and look for different types of audiences, audiences full power TV cannot adequately serve.

Full power television offers limited amounts of minority and other specialized programming. Full power stations can never serve these groups adequately because it is uneconomical for them to do so. How can a facility worth many millions of dollars with a staff of well over a hundred people afford to have a major part of its programming for small segments of the population? Their service is designed for the mass audience and they are expected to make that audience their major concern.

A low power television station, which could be built for \$200,000 and operate with a staff of three or four people, could be successful while programming for minorities. And what holds for ethnic and racial communities also holds for other communities of interest. Low power television could carry shows for children, for local businessmen, for artists, for teachers, maybe for bicyclists, joggers or short-order cooks. Low power television could carry an important high school basketball game.

Time on low power television would be cheap enough that communities of interest such as a labor union, or church group, or business association, could produce and air their own programming.

Some of these groups could present their programs to the broadcast audience only through low power television. The reason is that an effective presentation would often be considered a so-called program length commercial, which the FCC permits low power stations to carry because of their specialized purpose but forbids full power stations, appealing to the mass audience, to broadcast.

You might ask, wouldn't cable, with its many channels, provide this service? The answer is no. Cable operators may very well import special interest programming from outside sources, and that's fine. We should have such programming. But the nature of major cable operation precludes doing any really effective local programming geared to small segments of the population. There will obviously be a minimal effort as part of the price to be paid to get the franchise. But it is the low power operator who will necessarily produce such programming in order to be able to run a successful business. It will be the heart of the low power operation, rather than a nuisance to be minimized.

By carrying the low power stations, cable will be serving the public of the Sacramento area by bringing the broadest available diversity of interest to the public and by permitting

important groups within that area access to the public. With the great number of channels new cable systems are necessarily promising, is it not far more important that at least a few of those channels bring these additional local diverse services to the City and County?

In competition for a franchise, cable operators will promise programming for minorities and other specialized groups deserving service. I would like to suggest to any enlightened cable operators present that having low power stations originating local programming on your cables would be a painless and very effective way to provide highly desirable additional service and would greatly help you fill the many channels you will propose in seeking a franchise. Your committing to do this should certainly make you a more attractive franchise applicant and your unwillingness to do this should make the City and County very suspect of any promises you make about serving the local community.

Now, why would cable destroy low power if cable did not carry these new stations? Simple. People don't need an antenna to receive cable. In fact, cable companies frequently offer to remove existing antennas when they install cable. New homes with cable would never have antennas, and antennas would gradually disappear from existing homes. Since a home owner buying cable knows he will get the local full power stations it is unreasonable to expect that many will keep an antenna for low power television and it is equally unlikely that the next owner would then go to

the expense of putting up an antenna. If low power TV stations with the equipment and operating expense for local production cannot be received, of course they cannot exist. That is why they must be carried on cable.

In conclusion, we low power television applicants are small businesspeople who hope to serve audiences which never have been or will be adequately served any other way, and give outlets of self-expression to significant local groups needing them. We can only do it if given a fair chance to show our product in the marketplace. You can achieve this only by requiring that any cable franchise in the City and County provide that all low power television broadcast stations there which originate local programming be carried on the cable system.

Thank you for the opportunity to present our position.

COUNTY OF SACRAMENTO

Inter-Department Correspondence

Date March 19, 1981



To : The Board of Supervisors
The City Council

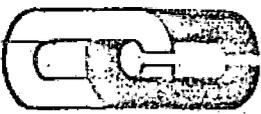
From : Judi Graham, Foreman
1980-81 Sacramento County Grand Jury

Subject: Endorsement of the Educational Consortium's Position Paper

Please be advised that as a result of special investigation, the Grand Jury voted at its meeting on March 17, 1981, to endorse the position paper regarding "Community Use of Cable Television" by the Sacramento Area Educational Consortium for Instructional Television dated December 23, 1980, and previously transmitted to you.

We believe that the statements of need are accurate and the recommendations as outlined in this report are important minimum considerations which should be incorporated into any franchise agreement you may adopt.

Further, we wish to commend the Educational Consortium as a model for other community groups who are presently determining their roles in relationship to the development of a cable television system in Sacramento. The Consortium is a broad-based group which is representative of educational groups throughout the community and its proposal reflects widespread information-gathering, comprehensive analysis of existing resources which can be utilized if cable television becomes a reality, and, most important, realistic requests.



COMMON CAUSE/ CALIFORNIA

1107 9th Street #405, Sacramento, CA 95814 • 916/443-1792

March 23, 1981



RE: Cable Franchise Selection Process

We are writing to call your attention to a number of proposals that have been put forward by Common Cause members in other localities to help ensure a more open and ethical franchise selection process. Since a cable ordinance is currently under consideration in the Sacramento area, we are providing the recommendations outlined below for your consideration. To suggest possible language, we have attached an ordinance recently adopted by the City of Fairfax, Virginia, though we believe certain of its provisions go further than is necessary here in view of state and local regulations that would already apply.

Recommendation 1

Persons compensated to influence cable franchise legislation should be required to register and to report expenditures made to influence such legislation and any campaign contributions made to elected officials voting on the legislation (including local candidates who, if elected, would vote on the legislation).

Recommendation 2

Local elected officials and officers should be required to keep a log of communications with cable applicants and their representatives concerning any aspect of the cable decision which takes place outside of public meetings. These should be submitted to a central office and made available to the public within a reasonable time after the communication takes place.

Recommendation 3

Legal staff of the City and County should review applicable conflict of interest disclosure requirements to ensure that financial relationships with cable applicants would be disclosed before any selection is made, and that cable consultants and other key local officials are covered by appropriate disclosure requirements.

Recommendation 4

Local cable decision-makers should take steps to discourage cable applicants from securing local support through questionable stock offers at below market investor cost and risk, i.e. "rent-a-citizen".

We would appreciate your reaction to these proposals and, if warranted, the opportunity to present them at a public meeting. If you have any questions please contact Alan Miller in our Sacramento office.

Alan D. Miller

ALAN D. MILLER
2123 10th Avenue
Sacramento, CA
95818

Mary Gill

MARY GILL
2319 "P" St. #C
Sacramento, CA
95816

Sincerely,

Flora L. Davis

FLORA L. DAVIS
7840 Sloug House Rd.
Elk Grove, CA
95624

CC. County Supervisors
City Council Members

REVERSE DISCRIMINATION
STANDARDS OF JUDICIAL REVIEW

STRICT SCRUTINY

INTERMEDIATE SCRUTINY

Compelling or Substantial Important

State
interest
required

(1) Remedying Past Discrimination

Requires Findings

Identified constitutional or
statutory violations

General societal discrimination
Bakke-Brennan et al., Price

Rationales

Bakke - Powell, Price,
Department of General Services
Unclear - violations by whom?

(2) Integrated workforce in public safety departments
Minnick

(3) Achievement of diverse academic student body
Bakke, DeRonde

(4) Promotion of community responsiveness in broadcasting
TV 9

Least Intrusive (on rights of nonminorities) Reasonably tailored (to achieve
the important state interest)

Means
Used

A. Required specified minimum level
of minority participation

Probably valid for (1)*
Perhaps valid for (2) * *
Probably invalid for (3)-(4)

Probably valid for (1) (2) (3) (4)

B. Consideration of minority status
as a plus factor

Probably valid
for (1) (2) (3) (4)

Valid for (1) (2) (3) (4)

*Bakke - Powell Greater likelihood of validity if discrimination by this public entity.

**US Supreme Court decision in Minnick expected in Spring/Summer of 1981 (prison guard case).



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NEWS RELEASE

Plans to increase local participation in Sacramento Cablevision, Inc. were announced today by John V. Diepenbrock, attorney for American Television & Communications Corporation and spokesman for Sacramento Cablevision, Inc. which is seeking the cable television franchise for the city and county.

Expected to join Sacramento Cablevision, Inc. as preferred share subscribers, pending approval by the California Department of Corporations, is a group of more than 30 local-area people headed by Raymond T. Butler and previously identified with River City Cable TV, Inc.

In addition to Butler, the River City group includes Richard Buhler, Donald Murchison, Barbara Scurfield and Ralph Ochoa.

Sacramento Cablevision, Inc. was formed last year by McClatchy Newspapers, American Television & Communications Corporation, a wholly-owned subsidiary of Time, Inc., and some 50 local investors.



American
Television & Communications
Corporation, a subsidiary of Time Incorporated



McCLATCHY
NEWSPAPERS

"Should Sacramento Cablevision be awarded the cable franchise, 40 percent of the shares will be purchased by American Television & Communications Corporation, the largest cable television company in the country, another 40 percent will be purchased by McClatchy Newspapers and 20 percent will be purchased by the individual Sacramento investors, providing a total of 60 percent in local ownership," said Diepenbrock.

"One of the concerns we had when we formed our original group of local share subscribers was that the Sacramento community interest be served by a cable television system," said Butler. "We believe that interest will be more effectively served by our joining with Sacramento Cablevision."