

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Amos B. Hostetter, Jr.)	
)	CSR-5573-X
Petition for Special Relief)	
Requesting Waiver of 47 C.F.R. § 76.501(a))	
)	
)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: October 31, 2000

Released: November 2, 2000

By the Chief, Cable Services Bureau:

I. INTRODUCTION

1. Amos B. Hostetter, Jr. filed the instant petition (the "Petition") seeking a waiver of Section 76.501, the Commission's cable television broadcast television station cross-ownership rules.¹ The Petition is unopposed.

II. BACKGROUND

2. In an earlier proceeding, the Commission granted Mr. Hostetter a waiver of the cross-ownership rules due to his attributable interest in MediaOne Group, Inc. ("MediaOne"), and his position as a trustee of the WGBH Educational Foundation ("WGBH" or, the "Foundation"), the licensee of three noncommercial broadcast television stations in the greater Boston and Springfield, Massachusetts areas (WGBH, channel 2, and WGBX, channel 44, in Boston; and WGBY, channel 57, in Springfield).²

III. DISCUSSION

3. As a trustee of WGBH, Mr. Hostetter possesses an interest in the three noncommercial broadcast stations licensed to the Foundation. Mr. Hostetter is now a member of the Board of Directors of AT&T Corp. ("AT&T"). Because of that membership, he seeks to extend the earlier relief the Commission granted to include his new position.³ As a member of the AT&T Board of directors, Mr. Hostetter has an attributable interest in AT&T's cable systems. AT&T owns Class A stock in Cablevision Systems Corp.

¹ 47 F.C.R. § 76.501.

² *Amos B. Hostetter, Jr., Petition for Special Relief Requesting Waiver of 47 C.F.R. § 76.501(a)*, 13 FCC Rcd 11198 (1998).

³ Petition at 1.

("Cablevision"), with a voting interest of approximately 8.9 %.⁴ Cablevision owns a cable system in Boston, Massachusetts, which overlaps the Grade B contours of all three WGBH stations. AT&T also owns another system in Vernon, Connecticut which overlaps the Grade B contours of WGBH and WGBY.⁵

In addition, AT&T's Hartford, and Plainville, Connecticut cable systems overlap WGBY's Grade B contour.⁶ In addition, AT&T operates former MediaOne cable systems in the greater Boston area that overlap the Grade B contours of all three stations.⁷

4. Mr. Hostetter states that the application of the television-cable cross-ownership restrictions to the instant case would not serve the twin objectives of the rules – to promote competition and maintain a marketplace for diverse ideas – and would be contrary to the public interest.⁸ He asserts that the Commission's competition and diversity concerns are not implicated here because the stations involved are noncommercial.⁹ Mr. Hostetter points out that the Commission has determined that "waiver of the television-cable cross-ownership rule is particularly appropriate where the television stations involved are noncommercial because 'they are not engaged in economic competition *vis-à-vis* other media' in the area the cable system will serve."¹⁰

5. Mr. Hostetter asserts that if he were forced to resign from the Foundation, his departure would create a substantial and unnecessary burden on the stations involved, and would deprive them of his considerable and unique experience in the communications field.¹¹ He maintains that AT&T would benefit from his extensive operational experience running and managing cable systems for over thirty years.¹² Finally, Mr. Hostetter maintains that the public interest will be served if he is allowed to remain as a director of AT&T and as a trustee of WGBH as he would be instrumental in the implementation of AT&T's and WGBH's business plans "to deliver diverse and valuable programming and other competitive services to millions of American consumers."¹³

6. The Commission's cross-ownership rule reads in relevant part:

No cable television system (including all parties under common control) shall carry the signal of any television broadcast station if such a system directly or indirectly owns, operates, controls, or has an interest in a TV broadcast station whose predicted grade B contour ... overlaps in whole or in part the service area of such system. ...¹⁴

⁴ Petition at 3, n. 6.

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 4.

⁹ *Id.* at 5.

¹⁰ *Id.* at 4-5, citing *University of Arizona Petition for Special Relief Requesting Waiver of 47 C.F.R. § 76.501(a), or in the Alternative, Clarification of Definition of "Cable System,"* 12 FCC Rcd 11458 (1997) ("*University of Arizona*").

¹¹ *Id.* at 6.

¹² *Id.*

¹³ *Id.*

¹⁴ 47 C.F.R. § 76.501(a). See Section 613 of the Communications Policy Act of 1984 (47 U.S.C. § 533).

The policy goals of Section 76.501(a) are to increase competition in the economic marketplace and in the marketplace of ideas.¹⁵ In cases where enforcement of the ban on cross-ownership does not promote these goals, a waiver of these rules will be entertained by the Commission.¹⁶

7. In the instant case, the stated policy objectives of the cross-ownership rules would not be impaired by granting a waiver and allowing Mr. Hostetter to simultaneously sit on AT&T's board of directors and on WGBH's board of trustees. The Foundation's three public television stations are noncommercial, and AT&T's Class A stock interest in Cablevision gives it only an 8.9% voting interest. Therefore, for the same reasons we have previously granted Mr. Hostetter's waiver petitions, we grant the petition here. In addition, waiving the rules in this instance will benefit the public. Compelling Mr. Hostetter to resign from the WGBH board would deprive the three WGBH noncommercial broadcast stations of Mr. Hostetter's considerable, unique experience in communications.¹⁷

IV. ORDERING CLAUSE

8. Accordingly, **IT IS ORDERED** that the Petition for Special Relief Requesting Waiver of 47 C.F.R. § 76.501(a) filed by Amos B. Hostetter, Jr. is **GRANTED**.

9. This action is taken pursuant to authority delegated by Section 0.321 of the Commission's rules.¹⁸

FEDERAL COMMUNICATIONS COMMISSION

Deborah A. Lathen
Chief, Cable Services Bureau

¹⁵ *Amos B. Hostetter, Jr.*, 13 FCC Rcd 11198, 11199-11200 (1998); *University of Arizona, Petition for Special Relief Requesting Waiver of 47 C.F.R. Section 76.501(a), or in the Alternative Clarification of Definition of "Cable System,"* 12 FCC Rcd 11458, 11460 (1997); *Kilgore Cable*, 11 FCC Rcd at 1685.

¹⁶ *Hostetter*, 13 FCC Rcd at 11199-11200; *Arizona*, 12 FCC Rcd at 11460; *Cablevision of Augusta, Inc.*, 62 FCC 2d 184 (1977), citing *Amendment of Part 74, Subpart K, of the Commission's Rules and Regulations Relative to Community Antenna Television Systems; and Inquiry Into the Development of Communications Technology and Services To Formulate Regulatory Policy and Rulemaking and/or Legislative Proposals ("Second Report and Order")*, 23 FCC 2d 816, 821 (1970), *recon. denied*, 39 FCC 2d 377 (1973).

¹⁷ *See All Clear*, 50 FCC 2nd at 694.

¹⁸ 47 C.F.R. § 0.321.