

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

In the Matter of:
Corridor Television, L.L.P.
v.
Cable Management Inc., d/b/a
Cable Management Associates
Request for Mandatory Carriage of
Television Station KBEJ(TV),
Fredericksburg, Texas
CSR-5656-M

MEMORANDUM OPINION AND ORDER

Adopted: May 22, 2001

Released: May 24, 2001

By the Chief, Consumer Protection and Competition Division, Cable Services Bureau:

I. INTRODUCTION

1. Corridor Television, L.L.P. ("Corridor"), licensee of television broadcast station KBEJ(TV), Fredericksburg, Texas ("KBEJ" or the "Station") filed the above-captioned must carry complaint against Cable Management Inc., d/b/a Cable Management Associates ("CMA"), for failing to carry KBEJ on its cable system serving the communities of Schulenburg and Giddings, Texas and the surrounding areas (the "cable communities"). No opposition to the complaint was received.

II. BACKGROUND

2. Pursuant to Section 614 of the Communications Act and implementing rules adopted by the Commission in Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues ("Must Carry Order"), commercial television broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station's market. A station's market for this purpose is its "designated market area," or DMA, as defined by Nielsen Media Research. A DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns.

1 8 FCC Rcd 2965, 2976-2977 (1993).

2 Section 614(h)(1)(C) of the Communications Act, as amended by the Telecommunications Act of 1996, provides that a station's market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns. See 47 U.S.C. § 534(h)(1)(C). Section 76.55(e) requires that a commercial broadcast television station's market be defined by (continued...)

3. Pursuant to the Commission's must carry rules, cable operators have the burden of showing that a commercial station that is located in the same television market is not entitled to carriage.³ One method of doing so is for a cable operator to establish that a subject television signal, which would otherwise be entitled to carriage, does not provide a good quality signal to a cable system's principal headend.⁴ Should a station fail to provide the required over-the-air signal quality to a cable system's principal headend, it still may obtain carriage rights because under the Commission's rules a television station may provide a cable operator, at the station's expense, with specialized equipment to improve the station's signal to an acceptable quality at a cable system's principal headend.⁵

III. DISCUSSION

4. In support of its complaint, KBEJ states that it is licensed to Fredericksburg, Texas, which is in the Austin, Texas DMA. It states further that CMA operates a cable television system in the Austin DMA. KBEJ contends that because it is located within the same DMA as the CMA cable system, it is entitled to mandatory carriage on the system that serves the cable communities. KBEJ asserts that it formally requested CMA to commence carriage of its signal on channel 2 of the cable system at issue.⁶ KBEJ notes that CMA denied its must carry request on the grounds that it did not provide a good quality signal pursuant to the Commission's rules.⁷ According to KBEJ, it is committed to acquire and install any improvements and equipment needed to provide CMA with a good quality signal.⁸ KBEJ requests that the Commission order CMA to commence carriage of its signal on channel 2 of the cable system serving the cable communities.

5. Section 76.55(e) of the Commission's rules provides that commercial television broadcast stations, such as KBEJ, are entitled to carriage on cable systems located in the same DMA.⁹ Cable operators, on the other hand, have the burden of showing that a commercial station that is located in the same television market is not entitled to carriage.¹⁰ CMA has failed to meet its burden. CMA merely has alleged that KBEJ's signal strength is insufficient. It has not submitted an engineering study to support its allegation. KBEJ has committed to acquire and install, at its own expense, any and all necessary improvements and equipment needed to provide CMA with a good quality signal. KBEJ, by committing to provide any necessary equipment has satisfied its obligation to bear the costs associated with delivering a good quality signal.¹¹ Thus, we find that KBEJ is entitled to mandatory carriage on CMA's cable system.

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Nielsen Media Research's DMAs.

³ See *Must Carry Order*, 8 FCC Rcd at 2990.

⁴ 47 C.F.R. § 76.55(c)(3).

⁵ *Must Carry Order*, 8 FCC Rcd at 2991.

⁶ Complaint at 1 and Exhibit A.

⁷ Complaint at 1 and Exhibit B. According to CMA, KBEJ's signal measures -26db and does not meet the Commission's must carry signal strength standards. *Id.*

⁸ Complaint at Exhibit A.

⁹ 47 C.F.R. § 76.55(e).

¹⁰ See *Must Carry Order*, 8 FCC Rcd at 2990.

¹¹ See *Must Carry Order*, 8 FCC Rcd at 2991. See, e.g. *WMPF, Inc.* 11 FCC Rcd 17264 (CSB 1996); *KSLN*,
(continued...)

6. With respect to KBEJ's channel positioning request, we find that it has properly requested carriage on channel 2 of CMA's system, the same channel number on which it is broadcast over-the-air. Pursuant to the Commission's rules, cable operators must comply with the channel positioning requirements absent a compelling technical reason.¹² Based on the foregoing, we grant KBEJ's complaint.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, pursuant to Section 614 of the Communications Act of 1934, as amended (47 U.S.C. § 534), that the must carry complaint filed by Corridor Television, L.L.P., licensee of television broadcast station KBEJ, Fredericksburg, Texas against Cable Management Inc., d/b/a Cable Management Associates **IS GRANTED**.

8. **IT IS FURTHER ORDERED** that CMA **SHALL COMMENCE CARRIAGE** of the KBEJ signal on Channel 2 of its cable system serving Schulenburg and Giddings, Texas and surrounding areas, within sixty (60) days from the date of the release of this *Order*.

9. This action is taken pursuant to authority delegated by Section 0.321 of the Commission's rules.¹³

FEDERAL COMMUNICATIONS COMMISSION

Deborah E. Klein, Chief
Consumer Protection and Competition Division
Cable Services Bureau

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Inc., 11 FCC Rcd 12718 (CSB 1996). *See also* 47 U.S.C. § 534(h)(1)(B)(iii).

¹² 47 C.F.R. § 76.57; *see Must Carry Order* at 2988.

¹³ 47 C.F. R. § 0.321.