

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

In the Matter of:	)	
	)	
African-American Broadcasting	)	
Company of Bellevue, Inc.	)	CSR-5718-M
	)	
v.	)	
	)	
Direct Digital Communications	)	
	)	
Request for Mandatory Carriage of	)	
Television Station KWOG(TV),	)	
Bellevue, Washington	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: October 9, 2001**

**Released: October 12, 2001**

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

**I. INTRODUCTION**

1. African-American Broadcasting Company of Bellevue, Inc. (“African-American”), licensee of television broadcast station KWOG(TV) (Ch. 51), Bellevue, Washington (“KWOG” or the “Station”) filed the above-captioned must carry complaint against Direct Digital Communications (“Direct”), for failing to carry KWOG on its cable systems in Brighton Ridge, Boteara, Cascade View, Crown Pointe, Cypress Cove, 5<sup>th</sup> & Roy, Highline Court, Sunrise Poite and Paso Fino.<sup>1</sup> 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.<sup>2</sup> A station’s market for this purpose is its “designated market area,” or DMA, as defined by Nielsen Media Research.<sup>3</sup> A DMA is a geographic market designation that defines each television market exclusive of

<sup>1</sup> Complaint at 1. African-American notes that the Station’s prior call sign was KBEH(TV). *Id.*

<sup>2</sup> 8 FCC Rcd 2965, 2976-2977 (1993).

<sup>3</sup> 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 base 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...)

others, based on measured viewing patterns.

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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

### III. DISCUSSION

4. In support of its complaint, KWOG states that it is a full power television station licensed to Bellevue, Washington, which is in the Seattle-Tacoma DMA.<sup>7</sup> It states further that Direct operates several cable television systems, which are also in the Seattle-Tacoma DMA.<sup>8</sup> KWOG asserts that it formally requested Direct to commence carriage of its signal on the cable systems at issue.<sup>9</sup> KWOG states that in response to its to its must carry request, Direct wrote to request additional information about the Station – information which KWOG provided.<sup>10</sup> According to KWOG, a few weeks later, a representative of Direct indicated that Direct would measure the Station's signal at each one of the headends in question, and would contact KWOG with the results within a week.<sup>11</sup> Because there was no further response from Direct, KWOG filed the instant complaint.<sup>12</sup> KWOG requests that the Commission order Direct to commence carriage of its signal on the cable systems in question.<sup>13</sup>

5. Section 76.55(e) of the Commission's rules provides that commercial television broadcast stations, such as KWOG, are entitled to carriage on cable systems located in the same DMA.<sup>14</sup> As noted above, cable operators have the burden of showing that a commercial television station that is located in the same television market is not entitled to carriage.<sup>15</sup> We find that Direct has failed to meet its burden and, thus, KWOG is entitled to mandatory carriage on the Direct cable systems at issue. Based

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Nielsen Media Research's DMAs.

<sup>4</sup> See *Must Carry Order*, 8 FCC Rcd at 2990.

<sup>5</sup> 47 C.F.R. § 76.55(c)(3).

<sup>6</sup> *Must Carry Order*, 8 FCC Rcd at 2991.

<sup>7</sup> Complaint at 2.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* and Attachment A.

<sup>10</sup> Complaint at 2 and Attachment B.

<sup>11</sup> Complaint at 2 and Attachment C.

<sup>12</sup> Complaint at 3 and Attachment D.

<sup>13</sup> Complaint at 4.

<sup>14</sup> 47 C.F.R. § 76.55(e).

<sup>15</sup> See *Must Carry Order*, 8 FCC Rcd at 2990.

on the foregoing, we grant KWOG's complaint.

#### IV. ORDERING CLAUSES

6. 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 African-American Broadcasting Company of Bellevue, Inc., licensee of television broadcast station KWOG(TV), Bellevue, Washington, against Direct Digital Communications **IS GRANTED**.

7. **IT IS FURTHER ORDERED** that Direct **SHALL COMMENCE CARRIAGE** of the KWOG signal on its cable systems serving Brighton Ridge, Boteara, Cascade Pointe, Cypress Cove, 5<sup>th</sup> & Roy, Highline Court, Sunrise Poite and Paso Fino, Washington, within sixty (60) days from the date of the release of this *Order*.

8. **IT IS FURTHER ORDERED** that KWOG shall notify Direct in writing of its carriage and channel position elections (§§ 76.56, 76.57 and 76.64(f) of the Commission's rules) within thirty (30) days of the release date of this *Order*.

9. This action is taken pursuant to authority delegated by Section 0.321 of the Commission's rules.<sup>16</sup>

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>16</sup> 47 C.F.R. § 0.321.