

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

In the Matter of:)	
)	
Telefutura Miami LLC)	
)	CSR-6174-M
v.)	
)	
Adelphia Cable Communications)	
)	
Request for Mandatory Carriage of)	
Television Station WAMI-TV,)	
Hollywood, Florida)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: October 9, 2003

Released: October 14, 2003

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Telefutura Miami LLC (“Telefutura”), licensee of television broadcast station WAMI-TV (Ch. 69), Hollywood, Florida (“WAMI”) filed the above-captioned complaint for mandatory carriage against Adelphia Cable Communications (“Adelphia”) for failing to carry WAMI on Adelphia’s cable television system serving the communities of Boca Raton, Boca West, and Delray Beach, Florida (the “cable communities”). No opposition was filed by Adelphia. For the reasons discussed below, we grant the petition.

II. BACKGROUND

2. Under Section 614 of the Communications Act of 1934, as amended (“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, such as WAMI, are entitled to assert mandatory carriage rights on cable systems located within the station’s market.¹ A station’s market for this purpose is its “designated market area,” or DMA, as defined by Nielsen Media Research.² A DMA is a

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 Nielsen Media Research’s DMAs. 47 C.F.R. § 76.55(e).

geographic market designation that defines each television market exclusive of others, based on measured viewing patterns.

3. Under the Act, the Commission is also directed to consider changes in market areas. Section 614(h)(1)(C) provides that the Commission may:

with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section.³

III. DISCUSSION

3. In support of its complaint, Telefutera states that by order dated May 13, 1999, the former Cable Services Bureau of the Commission determined that WAMI satisfied the statutory criteria for modification of its market and expanded the station's signal carriage rights to include the cable communities.⁴ According to Telefutera, Adelphia thereafter carried WAMI on its system serving the cable communities. Telefutera states that Adelphia, without notice or explanation, ceased carriage of WAMI on its system serving the cable communities on March 10, 2003, and that Telefutera demanded carriage of the station by letter dated March 28, 2003.⁵ Telefutera further states that Adelphia did not respond in writing to its demand letter, but advised the station without explanation that Adelphia would not carry the station's signal.⁶ Telefutera argues that Adelphia has neither filed a petition to delete the communities from WAMI's market, nor demonstrated that the cable operator is not obligated under the Commission's rules to carry the station.⁷

4. The Commission ordered Adelphia to carry WAMI in the cable communities on May 13, 1999. Adelphia has apparently ceased compliance with the Commission's order, and in doing so, violated the mandatory carriage rights granted to WAMI by the modification order. In light of the record, and lack of opposition, Telefutera's petition for mandatory carriage is granted. In addition, we will require Adelphia to file a report regarding its failure to carry WAMI in the cable communities.

³47 U.S.C. §534(h)(1)(C).

⁴ See *USA Station Group Partnership of Hollywood, Florida*, 14 FCC Rcd 7211 (1999).

⁵ Petition at 2; see 47 C.F.R. § 76.1601 (Deletion or repositioning of broadcast signals).

⁶ *Id.*

⁷ See 47 U.S.C. § 534(b)(5), 47 C.F.R. § 76.51 *et seq.*

IV. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED**, pursuant to Section 614 of the Communications Act of 1934, as amended, 47 U.S.C. § 534, that the mandatory carriage carry complaint filed by Telefutura Miami LLC, Inc., licensee of television broadcast station WAMI-TV, Hollywood, Florida, against Adelphia Cable Communications **IS GRANTED**.

6. **IT IS FURTHER ORDERED** that Adelphia **SHALL COMMENCE CARRIAGE** of WAMI's signal on channel 69 of its cable system serving Boca Raton, Boca West, and Delray Beach, Florida within thirty (30) days from the date of the release of this order.

7. **IT IS FURTHER ORDERED** that Adelphia shall file a report with the Commission detailing the facts and circumstances regarding its failure to carry WAMI-TV in the cable communities since March 10, 2003 within thirty (30) days from the date of the release of this order.

8. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.⁸

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Deputy Chief, Policy Division
Media Bureau

⁸ 47 C.F.R. § 0.283.