

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

In re Complaint of)	
)	
SKDA Broadcasting Partnership)	CSR 5057-M
against Northland Cable Television)	
)	
Request for Carriage of KHSX-TV, Irving, Texas)	

MEMORANDUM OPINION AND ORDER

Adopted: December 22, 1997

Released: December 24, 1997

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

INTRODUCTION

1. On July 31, 1997, SKDA Broadcasting Partnership ("SKDA"), licensee of independent television broadcast station KHSX-TV, Channel 49, of Irving, Texas (the "Station"), filed a complaint pursuant to Section 76.61 of the Commission's Rules, 47 C.F.R. § 76.61, claiming a right to mandatory carriage of the Station on the Northland Cable Television system ("Northland") serving Corsicana in Navarro County, Texas. Northland did not file a response to the complaint. On August 15, 1997, SKDA filed an amended complaint stating that Northland had begun to carry the Station's signal, but not on the Station's over-the-air channel; thus, SKDA requests a ruling that Northland be required to carry the Station on Channel 49, the Station's over-the-air broadcast channel. Northland did not file a response to the amended complaint.

BACKGROUND

2. Pursuant to Section 614 of the Communications Act and implementing rules adopted by the Commission in its *Report and Order* in MM Docket 92-259,¹ 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 "area of dominant influence," or ADI, as defined by the Arbitron audience research organization. An ADI is a geographic market designation that defines each television market exclusive of others, based on measured viewing.

3. In its complaint, SKDA argues that it is entitled to must carry status on Northland. SKDA states that the Station is a full power local commercial station and that Northland and the Station fall within the Dallas/Fort Worth ADI. SKDA further asserts that the Station's programming is not substantially duplicated by another station on Northland and that carriage of the Station would not increase Northland's copyright liability. SKDA then asserts that the Station provides a sufficient signal to Northland's Corsicana headend and that, even if it did not, the Station would purchase any and all

¹8 FCC Rcd 2965, 2976-2977 (1993) ("*Must Carry Order*").

necessary equipment to provide an adequate quality signal at Northland's headend. Finally, SKDA asserts that Northland provides more than 12 usable channels to its subscribers, that fewer than one-third of these channels carry the signals of local commercial television stations, and that accordingly Northland must honor the Station's must-carry election.

4. SKDA made its formal must-carry election on August 23, 1996 and thereafter made its must-carry demand to Northland on May 1, 1997. Although Northland agreed in principle to carry the Station, by July 29, 1997 Northland had not yet in fact begun to carry the Station. The Station filed the instant complaint on July 30, 1997, within 60 days of Northland's failure to carry the Station on Northland.

5. In its amended complaint filed August 14, 1997, SKDA states that Northland has begun to carry the Station, but is carrying the Station on Channel 99 rather than on the Station's over-the-air broadcast Channel 49. SKDA requests a ruling ordering Northland to carry the Station on Channel 49.

DISCUSSION

6. As Northland has not filed a response in this proceeding, we are persuaded by the reasons and arguments set forth in SKDA's complaint that, as a local commercial television station, the Station is entitled to must-carry status on Northland.² Likewise, because Northland has not proffered any reasons why the Station should not be transmitted on Channel 49, we find that, as a commercial power station that has made a valid must-carry election, the Station is entitled to be carried on Northland on Channel 49, the Station's over-the-air broadcast channel.³

ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, pursuant to Sections 76.61(a)(4) and 76.57(a), that KHSX-TV of Irving, Texas is **GRANTED** must-carry status on the Northland Cable Television system serving Corsicana in Navarro County, Texas and that Northland is **ORDERED** to carry KHSX-TV on Channel 49 within 60 days from the date this *Order* is released.

8. This action is taken pursuant to authority delegated by Section 0.321 of the Commission's Rules, 47 C.F.R. Section 0.321.

FEDERAL COMMUNICATIONS COMMISSION

Gary Laden, Chief
Consumer Protection and Competition Division
Cable Services Bureau

²See 47 C.F.R. § 76.56(b).

³See 47 C.F.R. § 76.57(a).