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GUIDELINES FOR PLANNING A CABLE TELEVISION FRANCHISE

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 - A) STRATEGY AND TIMING
 - 1) Does the City have a short and long-range plan for the development of telecommunications services and systems on which to base franchise terms and negotiations? Such a plan should include, among other elements:
 - a. the current and projected (15-25 year) needs and interests in telecommunications services among all sectors of the area's population (households, industry, commerce, institutions, government) with emphasis upon:
 - public services; safety, health, education, welfare, traffic...
 - urban development; substitutability of communications for transportation; decentralization; metropolitan integration; civic participation...
 - b. the communications origination resources of the area (by sectors)
 - c. the capabilities of the basic types of telecommunications carrier systems:
 - public television and radio stations, microwave broadcasting (MDS), short haul microwave, broadband cable, telephonic systems, educational microwave (ITFS), specialized closed circuit, videotape syndication...
 - d. formulation of short and long term goals and objectives

- e. franchise area determinants: regional, metropolitan, city, intra-city, community sub-districts. Inter-city joint franchising
 - f. design requirements and parameters to be established before inviting proposals: capacity, interconnection, pay capability, two-way capability, penetration objectives, and time-tables...
 - g. funding capabilities: capital and operating (including pay-cable, non-broadcasting services, payments for government functions...
 - h. appropriate ownership/control structure, equity/loan capital options
 - i. to achieve the highest goals of the City, it may well be necessary to ignore or challenge the restrictive and ambiguous rule-makings of the FCC. Will this be feasible?
- 2) Do the benefits to the public from currently available levels of technology and services outweigh the advances that will be available in 3-5 years from emerging new technology, services, economics? Interim evaluation of alternative basic systems now in test phases include:
- a. switched and other selective systems
 - b. two-way systems of various types
 - c. multi-function systems with dual or triple cables combining broadcast-mode services under FCC jurisdiction with unrestricted common carrier services under local jurisdiction (except interstate)
- (Since these basic systems are technically and economically incompatible, the adoption of any one system will effectively prevent the City from obtaining the benefits of the others for the life of the franchise, or longer).
- 3) Would any form of ownership-control of the cable carrier system, other than private, be more beneficial to the public?
- a. municipal ownership
 - b. construction and lease-back
 - c. a public telecommunications authority (perhaps integrating the major telecommunications carrier services, including broadband cable, public broadcasting, short-haul microwave...)
 - d. community or cooperative organizations (for some neighborhoods)
 - e. consortium or joint-venture
 - f. a combination of the above
- 4) Before committing the entire area to the current state-of-the-art and services, would it be prudent to first franchise highest feasible state-of-the-art pilot operations in smaller demonstration areas?

- 5) On the assumption that the telephone industry has the highest technology and lowest cost capabilities (distribution systems, switching, interconnection, construction, maintenance, R&D), although usually not under City jurisdiction, should accommodations be explored?

B) POLICY CONSIDERATIONS GOVERNING FRANCHISE TERMS

- 1) How many franchise areas should be established in the area?
- a. criteria for size and boundaries of areas
 - b. economies of scale (differ widely by types of systems and services--
--extent of cable operator control over programs and content a governing factor)
- 2) Should cable franchisees also operate as major suppliers of programming and content services...or be regulated by common carrier principles?
- which recognize the monopoly status of carriers and require operators to provide capacity and facilities to meet all demands, on reasonable notice, at just and reasonable rates and terms. Common carrier principles do not demand the application of public utility criteria for rates.
- 3) Should cable franchisees be given legal monopoly status and be regulated by public utility criteria?
- a. without undue risk of drying up equity capital, while attracting loan capital
 - b. without surrendering the City's jurisdiction to other government bodies
- 4) Are cable television services sufficiently in the "public interest, convenience and necessity" to require, from the beginning, that all households, public and non-profit institutions have the option to secure a no-charge or minimal charge connection which carries public, educational, and non-profit services only? It is estimated that 100% penetration would require only 10-15% higher capital investment.

--commercial TV stations would continue to be received by the existing *antenna*
This "splitting" of signals is technically feasible by dual cables, filtering,...

--in order to receive commercial TV stations and private services on the cable subscribers would pay standard rates.

--near 100% penetration would qualify cable systems immediately for the delivery of government and public services (safety, public education, health, welfare,...), mass advertising, meter-reading, security services, research,... Large sources of capital funding and revenues would be opened up.

--considering these opportunities, is the City prepared to conduct a feasibility study before the proper franchise terms are decided?

- 5) Should the franchise require the operator to provide adequate development capital?

- a. by meeting a schedule of capital investments sufficient to guarantee availability of service to all subscribers and channel lessees in 3-5 years
- b. by employing all cash flow surplus for completion of the system and improvement of carrier capacity and facilities only, for the first 5-7 years

(It is apparent that multiple system operators are withholding their allocations of capital to areas already franchised on the premise that their scarce capital can be most advantageously and profitably employed for securing new franchises, acquisitions and mergers, programming development, and equipment supply.)

- 6) Can enforceable provisions require the franchised operator to up-grade the system to meet prevailing states-of-the-art by requiring, on reasonable notice, that it
 - a. match the services and economies of other systems under same ownership
 - b. match other systems within the same population range
- 7) Control of the subscribers' pay terminal will determine whether cable systems will be open to all who desire to market programs and services or be available only to programs controlled by, or to those who share-the-action with, the cable operator.

--should control of receivers and terminals be separated from the control of cable operators and content suppliers?
- 8) Terminals will probably be leased, not sold, to the public. Is the City in a position to anticipate the eventual leasing of all types of TV receivers, facsimile printers, security alarms, etc, and is the City thus able to insure open access to all suppliers and lower costs to the public?
- 9) Should a specific total video channel capacity be specified, or
 - a. should the operator be required to add leased channel capacity on reasonable notice?
 - b. should there be limits to the capacity an operator may use for his own profit-making services which are not subject to preemption by government or the general public?
- 10) Two-way capability (whether data, voice or video-grade return) will have a multiplying effect on potential cable services and revenues from pay entertainment, sports, education, shopping, banking, business services, library retrieval,... Need it be mandatory?
- 11) Selective circuits, including geographic, demographic, and special purpose (doctors, students, government, other) by switching, coded addressing, filters, etc, would also multiply usage and revenue. Should they be required?

- 12) What criteria should be established for the negotiation of future changes in rates to subscribers, to government and non-profit channel lessees, and to other channel lessees?

--to what extent should revenues to franchisees from leasing channels and facilities, advertising sales, pay-TV sales, etc, reduce rates to subscribers

- 13) What requirements should be established for the provision of separate community sub-districts and origination points? Are census or planning areas appropriate for flexible aggregation into school districts, retail shopping areas, legislative districts, etc?

- 14) Should applicants for franchises be automatically disqualified as ineligible if they...

- a. engage in the supply of programming and content services?
(and who thus have incentives to discriminate against independent producers, to restrict capacity, and resist leasing channels for any programming which competes for audiences with their own programs and services)
- b. engage in supply of carrier and terminal equipment?
(thus have incentives to use equipment of less-than-competitive quality and costs, or to control access to the terminals)
- c. own or control any other media or communications carrier systems in the same market?
(such as newspapers, radio and TV stations, outdoor and direct mail advertising, film, entertainment and sports exhibition, which invite suppressions of a free market in news, information and programming)
- d. are already franchised in areas containing over X% of the population of the metropolitan area (SMSA) or Y% of the population of the State?

(The commanding need for such restrictive safeguards depends upon the extent to which cable operators are permitted to control--for their own interest--programming and equipment supply).

C) PROGRAMMING

- 1) Should the City establish criteria and priorities for the use of all origination channels and then adjudicate conflicting claims on capacity and facilities when they are in short supply? (FCC leaves to operator)
- 2) What programs and budgets will be adopted by the City for the programming and development of educational, non-profit and government channels for the delivery of City and institutional services...
 - a. should the City provide central program production facilities for all major public media? (broadcast, cable, educational and closed circuit, videotapes, film)

- b. should the City provide training services only, or pilot and demonstration programs?
- c. how will the City fund program production and/or training...from general revenue, departmental budgets, franchise fees?
- 3) Will the franchise require the operator to provide optional studio and origination-point facilities at reasonable rates and terms?
- 4) Will the operator be relieved of unreasonable liability for illegal programming controlled by others?
- 5) Will the privacy of subscribers be protected?
- 6) Will subscribers have current information available on all channels, including a directory channel on the cable?

D) REGULATION AND SUPERVISION

How are staff and budgetary requirements to be determined? And, what are to be the sources of funding (fees, general revenues) for the capability of:

- 1) Monitoring of technical standards, signal quality, terminal equipment compatibility
- 2) Supervision of construction, installations, maintenance, services
- 3) Public information on rights to services, easements
- 4) Complaints and adjustments, consumer protection
- 5) Rights of access for independent program and content producers, adjudication
- 6) Obstructions to penetration (hook-ups), landlord demands, cream-skimming, access for public housing installations, easements, pole and duct access
- 7) Financial and economic analysis, accounting and audits
- 8) Liaison: Federal, State, Municipal; legislative, regulatory, legal

E) SYSTEMS DEVELOPMENT REQUIREMENTS

There must be adequate staffing and funding for planning and analysis, such as:

- 1) Feed-back research on services, problems, opportunities
- 2) Technical intelligence: state-of-the-art and economics
- 3) Development of user sectors: commercial, industrial, civic, cultural, educational
- 4) Telecommunications carrier integration; programming coordination

5) Forward planning for new, improved and more economical services

6) Experimental and pilot projects

F) EXPERIENCE OF ESTABLISHED SYSTEMS

The City must survey comparable areas where cable television has been operating in order to benefit from their experiences.

G) ADEQUATE STAFFING AND COMPETENCE TO PLAN, DESIGN AND NEGOTIATE A FRANCHISE AT OPTIMUM TERMS

Cable television franchising is an unprecedented and non-recurring responsibility for a City. After the adoption of a City-wide franchise, there is little further need for the staff expertise required to develop a plan and franchise. Telecommunications technology, economics, and utilization is a complex and rapidly evolving art and cannot be compared with transportation, power, and familiar public services. It includes:

- 1) Technical, economic and social forecasting
- 2) Market and communications research
- 3) Communications, media, and information program production assessment
- 4) Technical applications
- 5) Financial and investment planning
- 6) Planning and policy analysis: feasibility studies, cost/benefit analyses
- 7) Communications law and regulation (Federal, State, Local)

A City will first look to its own planning, technical, financial, franchising, and legal resources but it is reasonably certain that even the best staffed government body will need, in the interest of the public and its own objectives, to employ special consultants in many areas. And, there are now various qualified consultant services, including in the public sector, such as the Cable Television Information Center (Urban Institute).

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