

By Sidney W. Dean, Jr.

## THE QUALITY OF YOUR LIFE

and the economic health of your city soon may depend in part upon the terms of its cable TV franchise. Broad-band cable trunk-lines connecting homes, businesses, institutions, and government agencies will soon become as universal and versatile as present "narrow-band" telephone and telegraph networks-but with 100,000 times the carriage capacity of telephone lines, carrying as many as 30 television signals in both directions and simultaneously transmitting thousands of channels of voice, radio, facsimile printing, and computer information.

ADA believes that the electronic Media carrier systems, both on-air and cable, must be regulated by the same open access, common carrier principles that now govern the telephone, telegraph, postal, rail, and aviation carriers and make them available to all. Reasonable and non-discriminating rates and terms must be guaranteed to both subscribers and producers of programs and services by utility principles of regulation.

ADA's concern is that these monopoly carriers be made open to access by any and all producers and distributors of programs and content at just and reasonable terms. The new FCC cable regulations, which became effective March 31, lack these guarantees and already are under attack by the ACLU and others. But even weak federal regulation can be strengthened by states and municipalities.

Federal control over cable stems from federal jurisdiction over the interstate origins of broadcast signals and the use of microwave interconnections; a cable system which confined itself to -intrastate origination of programs and content presumably would be exempt from federal jurisdiction.

The states have jurisdiction under their own constitutions over all other regulatory aspects. But the states, by revocable legislation, have delegated franchising powers over local services to their municipalities and civil divisions. To date, seven states have taken direct jurisdiction over cable TV and the issue is before another 25 legislatures, but it is highly unlikely that states will preempt all franchising jurisdiction over the use of local streets and public places.

Thus, to date, individual cable TV systems-

WHEN  
CABLE  
COMES  
TO  
TOWN

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their services, entry, access and rates-are regulated by municipal and local franchises. Admittedly, local governments have proven incompetent, motivated by revenue rather than public service considerations, lacking resources, and susceptible to improper and illegal influences. But, prodded by awakened public groups and their own interests local franchising will become more responsive to the public interest.

The parallel precedents of three-tier federal, state, and local regulation of the other monopoly utilities-telephone, telegraph, power, etc.-are inescapable. No substantive arguments have been advanced for regulatory treatment of broad-band wire, cable and radio carriers differing from regulation of narrow-band telephone and telegraph carrier systems. (An argument for avoidance of utility type rate restraints in the early period of capital investment has been persuasive to the FCC and the Sloan Commission, although its validity is unproven.)

**THE FIRST ESSENTIAL STEP** for ADA chapters and other citizen groups is to insure that municipal franchising procedures guarantee full public participation and protection of the public interest. To accomplish this, most larger cities should employ independent consultants with legal, technical, economic, financial, and operational competence. Smaller communities must assemble comparable skills in a volunteer task-force. Basic procedures should include:

- A survey of public needs and interests in communications carrier services and potential programs and contents.

- A survey of the area's capabilities for origination of programs and content services, both on a sponsored and pay-marketing basis.

- A definition of the logical franchise area: communities, city, suburbs, rural, regional, etc.

- A comprehensive "request for bidding" which translates area needs into precise geographic, technical and financial specifications. This step may call for the services of competent independent consultants. A public hearing should be held on these terms before approval.

- Allocation of ear-marked franchise fees and /or general revenues to provide essential support and development services, such as:

- a. Regulatory supervision and enforcement.
- b. Continuing research and development of new, improved, or more economical services.
- c. Evaluation of alternative Policies such as no-charge connections to all homes and nonprofit establishments, leasing TV receivers and two-way terminal equipment, etc.
- d. Test and Pilot operation of new services.
- e. Feedback research on performance and improvements.
- f. Ombudsman and complaint functions.
- g. Development, training' and Pilot production services for Public necessity programming and content - public and civic affairs, Public safety, education, health, welfare, vocational and employment aids, assistance to disadvantaged and minorities, etc.
- h. Local and community origination facilities and studios.
- i. Local, state, and federal regulatory, technical operational liaisons.

Choice of appropriate type or types of ownership, construction, operation, investments, etc., taking into consideration the availability of direct government assistance loans, loan guarantees, subsidies, contract payment for services, etc.

- Submission of request for competitive bids to eligible contractors, suppliers and franchisees.

- Award of contracts, after public inspection of bids and hearings

- Establishment of uniform accounting standards, provisions for performance evaluation, and public inspection of results and records.

- Provision for review and, if necessary, re-negotiation or recapture at fair terms for breaches of franchise.