

STATE OF MINNESOTA
CABLE COMMUNICATIONS BOARD

In the Matter of Proposed Rules of
the Minnesota Cable Communications
Board Repealing Certain Restrictions
on Interests in or Ownership, Operation
and Control of Cable Communications
Systems

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking proceeding is proposed amendment to existing rules of the Minnesota Cable Communications Board (Board), 4 MCAR §§ 4.100–4.104, Ownership and Control of A Cable Communications System. Specifically, the Board proposes to amend 4 MCAR §§ 4.100 E and 4.100 F, repealing restrictions on interests in or ownership, operation, and control of a cable communications system by a newspaper publisher and/or owner of a newspaper company and the newspaper company within the primary market area served by the newspaper, and by a radio or television broadcast station broadcasting from within the Twin Cities metropolitan area.

The proposed amendment to 4 MCAR § 4.100 E, if adopted, would allow a newspaper publisher and/or owner of a newspaper company or a newspaper company to own, operate, control or have a legal or equitable interest in a cable system within the newspaper's primary market area.

The proposed amendment to 4 MCAR § 4.100 F, if adopted, would allow a radio or television broadcast station broadcasting from within the Twin Cities metropolitan area to own, operate, control or have a legal or equitable interest in a cable system anywhere in the state of Minnesota, except that television broadcast stations will continue to be restricted from owning, operating, controlling or having a legal or equitable interest in cable systems if the television broadcast station's Grade B contour overlaps the service areas of the cable system, as provided in 4 MCAR § 4.100 A and in Federal Communications Commission rules and regulations.

Rule as proposed

4 MCAR § 4.100 Certain ownership prohibited. None of the following shall directly or indirectly own, operate, control or have a legal or equitable interest in a cable communications system:

D. A telephone company within its local exchange area, unless a proper and timely waiver is obtained from the Federal Communications Commission ~~or.~~

~~E. A publisher and/or owner of a newspaper company and the newspaper company within the primary market area, as defined by the Audit Bureau of Circulation, served by the newspaper, or~~

~~F. A radio or television broadcast station, broadcasting from within the Twin Cities metropolitan area as designated in Minn. Stat. § 473.121, subd. 4.~~

II. EXHIBITS

The following exhibits were submitted to the Board in support of the need for and reasonableness of the proposed amendments and are available for inspection at the Board offices:

1. Petition from the Minnesota Newspaper Association for repeal of 4 MCAR § 4.100 E, received May 16, 1980.

2. Final Comments of Petitioner, the Minnesota Newspaper Association, received November 13, 1980.

3. Response to Staff Report from the Minnesota Newspaper Association, received December 26, 1980.

4. Letter from James L. Vance, publisher, the Worthington Daily Globe, dated October 1, 1980.

5. Petition from the Minnesota Broadcasters Association for Repeal of 4 MCAR § 4.100 F, received July 7, 1980.

6. Presentation to the Minnesota Cable Communications Board by the Minnesota Broadcasters Association, August 8, 1980.

7. Presentation to the Minnesota Cable Communications Board by the Minnesota Broadcasters Association, October 17, 1980.

III. NEED FOR THE PROPOSED AMENDMENTS

The existing rules governing interest in and ownership, operation and control of cable communications systems were adopted by the Board on November 22, 1974.

On May 16, 1980, the Board received a petition (see exhibit 1) from the Minnesota Newspaper Association (MNA) for repeal of 4 MCAR § 4.100 E, a restriction on interests in or ownership, operation and control of a cable system by a newspaper publisher and/or owner of a newspaper company and the newspaper company within the primary market area served by the newspaper. The Board received supplementary pleadings on November 13, 1980 (see exhibit 2) and on December 26, 1980 (see exhibit 3). On October 2, 1980, the Board also received a letter (see exhibit 4) from James L. Vance, publisher, the Worthington Daily Globe, submitted in support of the repeal petition.

On July 7, 1980, the Board received a petition (see exhibit 5) from the Minnesota Broadcasters Association (MBA) for repeal of 4 MCAR § 4.100 F, a restriction on interests in or ownership, operation and control of a cable system by broadcast stations broadcasting from within the Twin Cities metropolitan area. The Board received supplementary pleadings from the MBA on August 9, 1980 (see exhibit 6) and on October 17, 1980 (see exhibit 7).

The Board considered oral and written outside opinion concerning the proposed rule amendments during the fall of 1980 after publishing notices of solicitation of comments in the Minnesota State Register.

The Board subsequently found and concluded that there are needs for more cable communication franchise applicants in rural and urban communities, and for increased competition in the franchising process which local newspapers and broadcast stations located within the Twin Cities metropolitan area might stimulate if the interest, ownership, operation and control restrictions on them were to be repealed.

IV. REASONABLENESS OF THE PROPOSED AMENDMENTS

The Board believes that the proposed rule amendments are reasonable because

(a) municipal franchising authorities have direct access to facts pertaining to the merits of franchise applicants, including local newspaper or Twin Cities metropolitan area broadcast station applicants which may compete for a franchise award;

(b) municipal franchising authorities have a beneficial grasp of local needs, and for cable communications services which a local newspaper or a Twin Cities metropolitan area broadcast station may be uniquely in a position to provide;

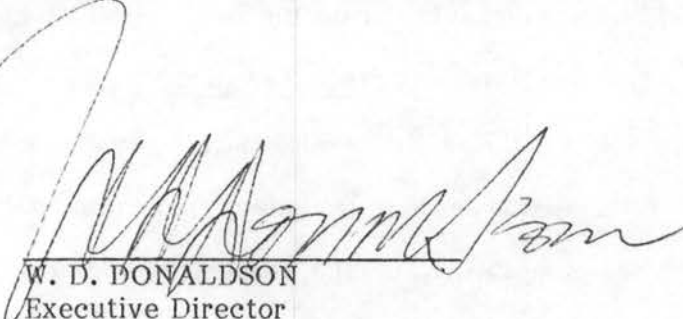
(c) municipal franchising authorities are competent parties who are able to overcome special advantages in the competitive process which local newspapers and the Twin Cities metropolitan area broadcast stations may have by virtue of their positions in the community;

(d) access to cable systems by competing communications media is guaranteed under the Board's rule requiring that access to cable systems be provided to anyone on a lease basis; and

(e) any party having a grievance may appeal to the Board under 4 MCAR § 4.006, Proceedings before the Board, and under 4 MCAR § 4.061, Initiating a Contested Case.

V. CONCLUSION

Based on the foregoing, the proposed amendments to 4 MCAR §§ 4.100 E and 4.100 F are both needed and reasonable.


W. D. DONALDSON
Executive Director

Dated: September 7, 1981