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Technical Bulletins: Cities Can Enforce Cable TV Access Requirements

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technical bulletin

Municipal Technical Advisory Service
Institute for Public Service, The University of Tennessee
In cooperation with the Tennessee Municipal League

June 8, 1979

CITIES CAN ENFORCE CABLE TV ACCESS REQUIREMENTS

Cities with cable TV franchises, or with agreements under consideration, should review them in light of a U.S. Supreme Court decision striking down the Federal Communications Commission's rule on access and channel capacity.

The ruling stated that the Commission had exceeded its authority in requiring cable systems (with 3,500 or more subscribers) to set aside free channels for use by the public, schools, and local governments. Nor will cable systems have to comply with a rule directing them to have a 20-channel capacity and a two-way transmission capability by 1986.

However, the ruling does not automatically deny local governments the power to impose access requirements, according to the Urban Institute's Cable Television Information Center. The Center's May 1979 newsletter notes that state and local authorities "appear to be free to enforce access rules of their own making."

Unless a city's cable TV franchise contains specific language on access, however, local governments may not be able to force operators to grant access services. Often franchise ordinances just incorporated the FCC rules by reference and this may not be sufficient. Language should clearly require access to be enforceable without being subject to interpretation.

Local officials should make sure that, in the future, access will be available as part of the contract between the city and the cable operator.

No State Regulation of Cable Rates

In another case, the Supreme Court let stand a lower court ruling that a state cannot control the rates cable operators charge for commercial free movies and entertainment specials. So far, the FCC has taken no action on such rates.

Local Governments Eligible for TV Facilities Grant

A new law makes available \$30 million per year in grants (for 3 years) for planning and constructing non-broadcast facilities (including cable TV systems) for "extending public telecommunication services" (noncommercial,

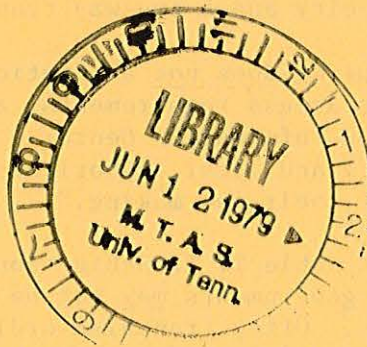
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educational, instructional, and cultural radio and TV programs).

State and local governments are eligible to apply, as are other "non-commercial telecommunications entities." Funds are being administered by the National Telecommunications and Information Administration. Previous grant programs did not include such technologies as cable TV.

NTIA has earmarked 75 per cent of the funds to bring TV services to areas not now receiving them. Planning projects may be funded up to 100 per cent; construction projects can receive matching grants up to 75 per cent of total costs.

For further information and application forms, write or call Mrs. Mary Dinota, Public Telecommunications Facilities Program, NTIA, 1325 G Street, NW, Washington, D.C. 20005, phone (202) 724-3307.



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