

**BEFORE THE
DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS
OF THE STATE OF HAWAII**

In the Matter of the Application of)
)
The Chronicle Publishing Company)
Doing Business As)
CHRONICLE CABLEVISION OF HAWAII)
)
For Approval of Cable Franchise Renewal to)
Provide Cable Communication Service)
_____)

Docket No. 90-02

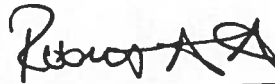
DECISION AND ORDER NO. 148

On November 23, 1990, the Director of Commerce and Consumer Affairs ("Director") issued Decision and Order No. 141, which granted approval of a cable franchise renewal to provide cable communications services to The Chronicle Publishing Company dba Chronicle Cablevision of Hawaii ("Chronicle"), subject to the Terms and Conditions that were incorporated by reference therein. On December 31, 1990, Chronicle timely filed its Request for Reconsideration, pursuant to Section 16-133-18 of the Hawaii Administrative Rules.

Upon further review and subsequent discussions with Chronicle, the Director finds that amendment of the Terms and Conditions of Decision and Order No. 141 is appropriate.

NOW, THEREFORE, it is hereby ordered that the Amended Terms and Conditions of Decision and Order No. 141, attached hereto and incorporated by reference, shall reflect all terms and conditions of the franchise renewal approved in Decision and Order No. 141 dated November 23, 1990, and shall supersede the Terms and Conditions set forth in Decision and Order No. 141.

DATED: Honolulu, Hawaii, January 24, 1991.

A handwritten signature in dark ink, appearing to read "Robert A. Alm", written over a horizontal line.

ROBERT A. ALM
Director of Commerce and Consumer
Affairs

**THE CHRONICLE PUBLISHING COMPANY
DBA CHRONICLE CABLEVISION OF HAWAII**

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AMENDED TERMS AND CONDITIONS OF DECISION AND ORDER NO. 141

Section One

Definitions

"Access channel" means any channel on the system made available for public, educational or governmental use.

"Access fee" means the annual fee to be paid by Chronicle Cablevision of Hawaii to the Director or his designee for public, educational or governmental uses pursuant to paragraph 7.2.

"Basic service" means the lowest cost tier of cable service offered by Chronicle Cablevision of Hawaii to all its subscribers which includes the delivery of local television broadcast signals, access channels, and local origination.

"Cable franchise" shall have the meaning as interpreted and set forth in Section 440G-3, Hawaii Revised Statutes.

"Cable service" shall have the meaning as interpreted and set forth in Section 440G-3, Hawaii Revised Statutes.

"Cable system" and "system" shall have the meaning set forth in Hawaii Revised Statutes Section 440G-3.

"Channel" means a minimum of six megahertz (6 MHz) bandwidth in the electromagnetic spectrum which is capable of carrying any type of transmission which Chronicle Cablevision of Hawaii is authorized to provide to subscribers.

"The Chronicle Publishing Company" means The Chronicle Publishing Company, doing business as Chronicle Cablevision of Hawaii, incorporated under the laws of Nevada.

"Chronicle Cablevision of Hawaii" means that entity which operates Chronicle's cable systems in the State.

"Director" shall have the meaning as interpreted and set forth in Section 440G-3, Hawaii Revised Statutes.

"Educational access channel" means any channel on the system which is made available by Chronicle Cablevision of Hawaii for use by educational authorities such as the Hawaii State Department of Education, and other accredited educational institutions for non-commercial educational purposes.

"Government access channel" means any channel on the system made available for use by county, state, and federal government agencies.

"Gross revenues" means all cash, credits, property of any kind or nature or other consideration derived directly or indirectly by Chronicle Cablevision of Hawaii, its affiliates, subsidiaries, parents, and any other person or entity in which Chronicle Cablevision of Hawaii has a financial interest or which has a financial interest in Chronicle Cablevision of Hawaii, arising from or attributable to operation of the cable system, including but not limited to:

- (a) revenue from all charges for entertainment and non-entertainment services provided to subscribers;
- (b) revenue from all charges for the insertion of commercial advertisements upon the cable system;
- (c) revenue from all charges for the leased use of studios or channels;
- (d) revenue from all charges for the installation, connection and reinstatement of equipment necessary for the utilization of the cable system and the provision of subscriber and other service; and
- (e) the sale, exchange or use or cablecast of any programming developed for community use or institutional users.

Gross revenues shall include, valued at agreed upon or contract price levels, the value of any goods, services, or other remuneration in non-monetary form, received by Chronicle Cablevision of Hawaii or others described above in consideration of performance by Chronicle Cablevision of Hawaii or others described above of any advertising or other service in connection with the cable system.

Gross revenues shall exclude any amounts received by others described above from Chronicle Cablevision of Hawaii as management fees and fees in the nature of general and administrative allocations.

"Leased access channel" means a channel made available to producers or programming services wishing to purchase channel time. Leased access may be commercial in nature.

"Local origination programming" means any program produced by or for the cable system and where the cable operator maintains editorial control over programming and scheduling.

"Person" means and includes any individual, partnership, firm, corporation, association, trust or other enterprise.

"PEG access programming" means any programming on any access channel developed by or made for the public, educational or governmental entities.

"Public access channel" means any channel on the system made available for use by individuals and organizations for non-commercial purposes.

"Public, educational, and governmental access facilities and equipment" means (1) channel capacity designated for public, educational, or governmental uses and (2) facilities, interconnection facilities, and equipment for the use of that channel capacity.

"State" means State of Hawaii.

"Subscriber" means any person lawfully receiving any cable service.

"Western Communications" means Western Communications, a division of The Chronicle Publishing Company.

Section Two
Franchise Term

2.1. Franchise Term

The franchise term shall be from November 23, 1990 to December 31, 2000 subject to the following condition:

Taken as a whole, the provisions of this Order represent the optimum balance of interests in this case. Each provision has been weighed and balanced to form an integrated document. The elimination of any portion of this Order would consequently undermine the entire document. Therefore, if any section, subsection, sentence, clause, phrase or other portion of this Order is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, and in the event that Chronicle Cablevision of Hawaii fails to continue its performance of the obligations imposed by such invalid provisions, and the State determines that the unenforceable or unlawful provision(s) represent a substantial breach to the integral nature of this Order, then the franchise term for Chronicle Cablevision of Hawaii will revert to:

- A five (5) year franchise (measured from the date the franchise was originally awarded if the invalidation occurs within the first two (2) years of operations); or
- A three (3) year franchise (measured from the date of the invalidation if such action occurs after the first two (2) years of operations, but in no event will the amended franchise term exceed the original franchise term).

2.2 Consideration

(a) In consideration of the award of the franchise granted herein which permits Chronicle Cablevision of Hawaii to use and occupy Public Places and Public Highways to operate its cable systems, Chronicle Cablevision of Hawaii shall pay all fees required by

Chapter 440G, Hawaii Revised Statutes, as it may be amended from time to time, pay all monies specified herein, and provide all channels, facilities, equipment, technical assistance, and services specified herein.

(b) Notwithstanding any other paragraph herein, the total amount of the Annual Fee as specified in Chapter 440G, Hawaii Revised Statutes, including the annual Access Fee, shall not exceed the greater of five percent (5%) of Chronicle Cablevision of Hawaii's annual Gross Revenues or the maximum amount permitted by the applicable provisions of federal or State law, as said law may be amended or modified throughout the term of this Order.

Section Three

Management

3.1. Books and Records

Except as hereinafter provided in this paragraph, Chronicle Cablevision of Hawaii shall maintain at its principal place of business in the State a complete set of books and records, including but not limited to subscriber records, monthly profit-and-loss statements, and other documentation relating to the transaction of its business in the State. All books and records not maintained and available for review at the local office shall, upon request, be made available locally within five (5) working days.

If these books and records are not available locally within five (5) working days of the request:

(1) Chronicle Cablevision of Hawaii agrees to pay an administrative fine of \$1,000 per day for each day that these books and records have not been produced;
or

(2) Chronicle Cablevision of Hawaii shall make appropriate office space available and pay for air fare, hotel, other related travel expenses, and the salary and fringe benefits necessary to allow the Director's representative(s) to review the requested records wherever they are located.

3.2. Other Business Activity

Chronicle Cablevision of Hawaii shall not cause or permit its Hawaii Kai, Maui County, and Ka'u cable television systems (the "Hawaii Systems") to engage in any type of business activity involving cable communications in Hawaii or elsewhere which is not related to the operation of the Hawaii Systems without the prior written approval of the Director.

3.3. Tariff

Chronicle Cablevision of Hawaii shall amend its schedule of its rates of service and other information as required by the rules promulgated pursuant to Chapter 440G, Hawaii Revised Statutes, at least thirty (30) days in advance of any changes. The terms and conditions of service shall be subject to approval by the Director to the extent permitted by law.

3.4. Reporting of Violations

(a) Upon acquiring knowledge of any event which is reasonably likely to lead to a violation of any condition of this Order, Chronicle Cablevision of Hawaii shall immediately notify the Director in writing specifying: (1) the nature of such violation, (2) an opinion as to when the violation is likely to occur, and (3) the action that Chronicle Cablevision of Hawaii proposes to take regarding the probable violation.

(b) Upon acquiring knowledge of the existence of a violation of any condition of this Order, Chronicle Cablevision of Hawaii shall promptly inform the Director in writing of (1) the nature of the violation, (2) the period in which the violation has been in existence, and (3) the actions that Chronicle Cablevision of Hawaii proposes to take with respect to the violation.

(c) By April 30 of each year, Chronicle Cablevision of Hawaii shall submit to the Director a statement to the effect that no violation of this Order has occurred and is

continuing and that Chronicle Cablevision of Hawaii has observed or performed every condition contained in this Order. In the event a violation has occurred and is continuing or if Chronicle Cablevision of Hawaii has not observed or performed all of the conditions contained in this Order, it shall specify the nature and period of the violation and what action Chronicle Cablevision of Hawaii has taken or proposes to take with respect to the violation.

Section Four

Financial

4.1. Changes in Credit Line

In the event that the assets of the Hawaii Systems are pledged as collateral for any credit line as approved in Decision and Order No. 136 subsequent to the date of this Order with Wells Fargo Bank, N.A. (Agent) and Banque Paribas, any material change in the terms of the credit lines made for the financing of the acquisition, expansion or operation of the Hawaii Systems shall require the prior approval of the Director.

4.2. Covenant Violations

Any violation of a covenant of any agreement involving financing for the Hawaii Systems of Chronicle Cablevision of Hawaii shall be reported promptly in writing to the Director.

4.3. Collateralization of System Assets

The assets of the Hawaii Systems of Chronicle Cablevision of Hawaii shall not be pledged as collateral for any borrowings which are not solely for the benefit of the Hawaii Systems. All additional collateralization of the system shall be reported to the Director.

4.4. Additional Borrowing

With respect to the Hawaii Systems and excluding trade accounts, secured financings of vehicles and equipment in the aggregate principal amount of \$100,000, and advances, equity contributions, and subordinated borrowings from The Chronicle Publishing Company and its related entities, any additional borrowing or financing exceeding \$5,000 by the Hawaii Systems from whatever source and under whatever condition, shall require prior approval of the Director, except the foregoing shall not prohibit Chronicle Cablevision of Hawaii from guaranteeing the debt of The Chronicle Publishing Company and its related entities in connection with any advances, equity contributions, and subordinated borrowings from The Chronicle Publishing Company and its related entities, and the prior approval of the Director shall not be required therefor.

4.5. Transfers or Payments

Any transfer or payment from the Hawaii Systems of a sum in excess of \$50,000 and not related to the cost of operating the Hawaii Systems (including debt service) shall require the prior approval of the Director. Prior approval shall not be required for payments to The Chronicle Publishing Company and its related entities in connection with advances, equity contributions or subordinated borrowings as permitted in paragraph 4.4 above, provided that The Chronicle Publishing Company is in compliance with the credit lines in paragraph 4.1 with Wells Fargo Bank, N.A. (Agent) and Banque Paribas and the assets of the Hawaii Systems remain unsecured.

4.6. Annual Financial Statements

(a) By April 30 of each year, Chronicle Cablevision of Hawaii shall submit to the Director its annual financial statements for the preceding calendar year. The financial statements shall include a balance sheet, an income statement, a statement of cash flows, and notes to the financial statements. Each such financial statement shall be prepared in accordance with generally accepted accounting principles consistently applied. The financial statements shall be presented in sufficient detail to allow the analysis of the Hawaii Systems on a stand-alone basis.

(b) The financial statements required to be furnished pursuant to paragraph 4.6 shall be accompanied by a statement showing the basis for computing any amount paid by Chronicle Cablevision of Hawaii or any subsidiary to its parent, affiliates, subsidiaries, or any person for management fees and fees in the nature of general and administrative allocations.

4.7. Credit Line Compliance

Chronicle Cablevision of Hawaii shall furnish to the Director, promptly upon their mailing or transmittal, all documents reporting violations by The Chronicle Publishing Company of any provisions of the credit lines in paragraph 4.1 with Wells Fargo Bank, N.A. (Agent) and Banque Paribas. In addition, by April 30 of each year, Chronicle Cablevision of Hawaii shall submit to the Director, in a form satisfactory to the Director, a statement reflecting The Chronicle Publishing Company's compliance with the provisions of the credit lines in paragraph 4.1 with Wells Fargo Bank, N.A. (Agent) and Banque Paribas for the preceding calendar year.

Section Five **Construction**

5.1. Channel Upgrade

(a) Hawaii Kai

(1) On or before June 30, 1995, Chronicle Cablevision of Hawaii shall provide a study to the Director relating to the feasibility of providing a minimum bandwidth of 450 MHz or sixty (60) channel capacity for its Hawaii Kai system.

(2) Chronicle Cablevision of Hawaii shall rebuild or upgrade its Hawaii Kai system to a minimum bandwidth of 450 MHz or sixty (60) channel capacity by December 31, 1998.

(i) Six (6) months prior to commencing construction, Chronicle Cablevision of Hawaii shall submit to the Director a construction

schedule complete with construction milestones and relevant dates of completion so as to enable the Director to verify the progress of construction to rebuild or upgrade its cable system to a minimum bandwidth of 450 MHz or sixty (60) channel capable in the forward direction to all subscribers' terminals. Approval of the construction schedule by the Director is not required provided that the construction schedule meets the December 31, 1998 timetable.

- (ii) If by January 1, 1999 the rebuild or upgrade is not completed, Chronicle Cablevision of Hawaii shall set aside an amount equal to \$27,500 less the accumulated amount expended to date for this upgrade, but not less than what is estimated to complete the upgrade. The Director, in his sole discretion, shall determine the reasonableness of the amount necessary to complete the upgrade.

(3) Condition 4 of Decision and Order No. 124 dated May 8, 1987 shall remain in full force and effect. Within three (3) months of a request by the Director, Chronicle Cablevision of Hawaii shall submit to the Director a study regarding the quality of signals of the local Honolulu broadcast stations carried on its Hawaii Kai system. The study shall address signal quality, transmission dependability, and proposals to improve this situation, if necessary.

(b) Maui

(1) Forty-Channel Upgrade

- (i) Chronicle Cablevision of Hawaii shall upgrade its Maui system to a minimum bandwidth of 330 MHz by December 31, 1995 having the capacity for a minimum of forty (40) channels.
- (ii) Six (6) months prior to commencing construction, Chronicle Cablevision of Hawaii shall submit to the Director a construction schedule complete with construction milestones and relevant dates of completion so as to enable the Director to verify the progress of construction to rebuild or upgrade its cable system to

a minimum bandwidth of 330 MHz or forty (40) channel capacity in the forward direction to all subscribers' terminals. Approval of the construction schedule by the Director is not required provided that the construction schedule meets the December 31, 1995 timetable.

- (iii) If by January 1, 1996 the rebuild or upgrade is not completed, Chronicle Cablevision of Hawaii shall set aside an amount equal to \$3,408,400 less the accumulated amount expended to date for this upgrade, but not less than what is estimated to complete the upgrade. The Director, in his sole discretion, will determine the reasonableness of the amount necessary to complete the upgrade.

(2) Sixty-Channel Upgrade

On or before December 31, 1997, Chronicle Cablevision of Hawaii shall provide a study to the Director relating to the feasibility of providing a minimum bandwidth of 450 MHz or sixty (60) channel capacity for its Maui system. The study shall address the impact of the sixty-channel upgrade on the transmission of AML and FML microwave signals between Chronicle Cablevision of Hawaii's cable systems in the State.

(c) Molokai and Lanai

On or before June 30, 1995, Chronicle Cablevision of Hawaii shall provide a study to the Director relating to the feasibility of providing a minimum bandwidth of 400 MHz or fifty (50) channel capacity for its Molokai and Lanai systems. The study should address the impact of the channel upgrade on the transmission of AML and FML microwave signals between Chronicle Cablevision of Hawaii's cable systems in the State.

(d) Ka'u

(1) Thirty-Six Channel Upgrade

- (i) Chronicle Cablevision of Hawaii shall upgrade its Ka'u system to a minimum bandwidth of 300 MHz by December 31, 1995 having the capacity for a minimum of thirty-six (36) channels.

- (ii) Six (6) months prior to commencing construction, Chronicle Cablevision of Hawaii shall submit to the Director a construction schedule complete with construction milestones and relevant dates of completion so as to enable the Director to verify the progress of construction to rebuild or upgrade its cable system to a minimum bandwidth of 300 MHz or thirty-six (36) channel capacity in the forward direction to all subscribers' terminals. Approval of the construction schedule by the Director is not required provided that the construction schedule meets the December 31, 1995 timetable.
- (iii) If by January 1, 1996 the rebuild or upgrade is not completed, Chronicle Cablevision of Hawaii shall set aside an amount equal to \$467,500 less the accumulated amount expended to date for this upgrade, but not less than what is estimated to complete the upgrade. The Director, in his sole discretion, shall determine the reasonableness of the amount necessary to complete the upgrade.

(2) Sixty-Channel Upgrade

On or before June 30, 1995, Chronicle Cablevision of Hawaii shall provide a study to the Director relating to the feasibility of providing a minimum bandwidth of 450 MHz or sixty (60) channel capacity for its Ka'u system.

(e) Completion of Rebuild/Upgrade

Completion of any system rebuild or upgrade under this paragraph 5.1 shall be understood as a cable system having the capacity to deliver the number of channels of video programming specified above with the addition of appropriate equipment and facilities at the system headend and/or receive sites, but shall not be understood to require that such number of channels be activated at the system headend or that such number or any number of channels be programmed except as otherwise provided for by this Order. Except as otherwise specifically provided in this Order, no such system rebuild or upgrade shall require that the system headend and/or receive sites be upgraded or expanded to accommodate additional channel capacity as a condition of completion of the system upgrade or rebuild.

5.2. Emergency Override System

(a) Hawaii Kai

On or before December 31, 1992, Chronicle Cablevision of Hawaii shall configure and maintain its Hawaii Kai system to permit emergency authorities to override, simultaneously by remote control, all audio signals on all channels provided by this system. Emergency authorities shall include the City and County of Honolulu Deputy Director of Civil Defense. The emergency authorities shall have sole discretion to determine when to activate the emergency override system.

(b) Maui, Molokai, and Lanai

On or before December 31, 1992, Chronicle Cablevision of Hawaii shall configure and maintain its Maui, Molokai, and Lanai systems to permit emergency authorities to override, simultaneously by remote control, all audio signals on all channels provided by these cable systems. Emergency authorities shall include the County of Maui Administrator of Civil Defense. The emergency authorities shall have sole discretion to determine when to activate the emergency override system.

This paragraph shall be understood to permit emergency authorities to override, simultaneously by remote control, all audio signals on all channels originating from a given headend in the Maui, Molokai, and Lanai systems of Chronicle Cablevision of Hawaii, but shall not be understood to permit authorities to simultaneously override all three headends concurrently. Such emergency authorities will be required to override the audio signals at each such headend independently.

(c) Ka'u

On or before December 31, 1992, Chronicle Cablevision of Hawaii shall configure and maintain its Ka'u system to permit emergency authorities to override, simultaneously by remote control, all audio signals on all channels provided by this system. Emergency authorities shall include the County of Hawaii Administrator of Civil Defense. The emergency authorities shall have sole discretion to determine when to activate the emergency override system.

5.3. Institutional Network

(a) Chronicle Cablevision of Hawaii shall within six (6) months of a request by the Director provide and maintain two-way fiber optic interconnections at the sites specified below:

(1) Hawaii Kai

Chronicle Cablevision of Hawaii shall effect an interconnection at sites to be determined by the Director within Chronicle Cablevision of Hawaii's Hawaii Kai service area. In addition, Chronicle Cablevision of Hawaii shall cooperate with Oceanic Cablevision on the island of Oahu to complete connectivity between the institutional network required by Decision and Order No. 137 and the Hawaii Kai institutional network required by this paragraph.

(2) Maui

Chronicle Cablevision of Hawaii shall effect an interconnection at sites to be determined by the Director within the Chronicle Cablevision of Hawaii's Maui County service area. In addition, Chronicle Cablevision of Hawaii shall cooperate with Daniels Communications Partners Limited Partnership dba Hawaiian Cablevision Company to complete connectivity between the institutional network required by Decision and Order No. 146 and the Maui County institutional network required by this paragraph.

(3) Ka'u

Chronicle Cablevision of Hawaii shall cooperate with the other cable systems on the island of Hawaii regarding connectivity between institutional networks and sites within the Ka'u service area to be determined by the Director.

(b) These interconnections shall be capable of carrying T-1 circuits for data, voice, video, and analog in both directions.

(c) Chronicle Cablevision of Hawaii shall work with the Director's staff, consultants, and others designated by the Director to design the institutional networks and to develop and implement coordinated plans for their use.

(d) Upon written request by Chronicle Cablevision of Hawaii, the Director may grant an extension for the installation of the interconnections in paragraph 5.3(a) for good cause.

(e) Chronicle Cablevision of Hawaii shall provide and maintain the interconnections required in paragraphs 5.3(a)(1) (Hawaii Kai) and 5.3(a)(3) (Ka'u) at no charge or cost to the State except for Chronicle Cablevision of Hawaii's cost for labor and materials.

(f) With respect to its Maui County service areas, Chronicle Cablevision of Hawaii may receive a credit of up to \$65,000 to be applied against Chronicle Cablevision of Hawaii's requirement to pay the Access Fee described in paragraph 7.2 herein or PEG capital funds described in paragraph 7.3 herein. The taking of any credit by Chronicle Cablevision of Hawaii shall require the Director's prior approval. The credit shall be calculated on Chronicle Cablevision of Hawaii's actual costs for labor and materials expended in satisfaction of paragraph 5.3(a)(2). Chronicle Cablevision of Hawaii shall provide the Director or his designee with such verification of costs as may be requested. In the event that Chronicle Cablevision of Hawaii's actual costs for labor and materials to complete the interconnections required in paragraph 5.3(a)(2) exceed \$65,000, the excess costs shall be borne by the State.

(g) The State shall bear the following actual costs for labor and materials incurred by Chronicle Cablevision of Hawaii in providing such interconnections. Upon submission of invoices for the cost of such interconnections, together with such supporting documentation as the Director may require, the State shall promptly reimburse Chronicle Cablevision of Hawaii for the costs of such interconnections, which shall include the cost of materials utilized, including applicable taxes and shipping charges; cost of labor, including social security, unemployment insurance, workers' compensation insurance, and other benefits and taxes; and rental value of equipment and machinery.

(h) Chronicle Cablevision of Hawaii may construct the institutional networks required by this section in a manner it deems appropriate, consistent with paragraph

5.3(c). Chronicle Cablevision of Hawaii may utilize contractors to construct or maintain all or any portion of such institutional networks, including without limitation other cable operators.

5.4. Interconnection with HITS

Within three (3) months of a request by the Director, Chronicle Cablevision of Hawaii shall:

(a) Provide for reception of one channel of programming generated by the Hawaii Interactive Television System (HITS) in its Hawaii Kai, Maui, and Molokai cable systems at no cost or charge to the State and at a cost to Chronicle Cablevision of Hawaii not in excess of \$20,000. This shall include the costs of providing a frequency-agile ITFS down-converter, a receiving antenna dish, modulator, switches, other hardware, and installation at each site. In the event the actual cost to complete HITS reception and insertion at these sites exceeds \$20,000 in the aggregate, the excess cost shall be borne by the State. The programming provided by HITS may be carried on a shared-use basis over the access channel in each such system provided in accordance with the provisions of paragraph 7.4(a) below.

(b) Cooperate with the State regarding the carriage of HITS in the Ka'u service area.

(c) Cooperate with the State regarding the carriage of HITS on the Lanai cable system.

5.5. Access Interconnection

(a) On a schedule and in a manner to be determined in the plan described in paragraph 7.1. below, Chronicle Cablevision of Hawaii shall effect interconnections with other cable systems on Oahu, Hawaii, and Maui, and between its Maui County cable systems for the purpose of carrying access programming.

(b) With respect to the access interconnection between systems in the County of Maui, Chronicle Cablevision of Hawaii shall receive a credit of up to \$60,000 for its actual costs for labor and materials to be applied against Chronicle Cablevision of Hawaii's requirement to pay the Access Fee described in paragraph 7.2 herein or PEG capital funds described in paragraph 7.3 herein. The taking of any credit by Chronicle Cablevision of Hawaii shall require the Director's prior approval. Chronicle Cablevision of Hawaii shall provide the Director or his designee with such verification of costs as may be requested. In the event that the cost to complete the interconnection of the Maui County cable systems exceeds \$60,000, Chronicle Cablevision of Hawaii shall cooperate to resolve this matter consistent with the plan described in paragraph 7.1 below.

5.6. Additional Funding

Where additional funds are required to cover capital expenditures in excess of those originally proposed in paragraph 5.1 above, Chronicle Cablevision of Hawaii shall submit to the Director the sources of funding. If additional funds are to be made available in the form of equity, the source or sources of equity funding and the amounts to be contributed shall be fully disclosed. If additional funds are to be made available in the form of debt, such funding is subject to paragraph 4.4 above.

5.7. Construction Reports

Upon commencement of construction and continuing until all scheduled system improvements have been completed pursuant to paragraphs 5.1(a)(2), 5.1(b)(1), 5.1(d)(1), and 5.2, Chronicle Cablevision of Hawaii shall submit monthly written construction status reports to the Director.

5.8. Completion of Franchise Requirements

Any proposed transfer of the franchise, during the franchise term, shall require completion of paragraphs 5.1(a)(1), 5.1(a)(2), 5.1(b)(1), 5.1(b)(2), 5.1(c), 5.1(d)(1), 5.1(d)(2), and 5.2 before such transfer application shall be considered for approval by the Director.

Section Six
Programming Services

6.1. Mix, Quality, and Level of Service

Except to the extent permitted by federal law, Chronicle Cablevision of Hawaii shall not alter its current mix, quality, and level of programming services for its basic service tier, except as allowed in paragraph 6.2(c), without the prior approval of the Director.

6.2. Basic Service Tier Broad Categories of Programming

(a) Subject to availability, Chronicle Cablevision of Hawaii shall carry programming in each of the following broad categories of service on its basic service tier:

- (1) Public access programming;
- (2) Educational access programming;
- (3) Governmental access programming;
- (4) Local origination programming;
- (5) Public non-profit station with national programming (which may be a PBS station); and
- (6) Broadcast television stations as required by the Federal Communications Commission or applicable law.

(b) Except as provided below, no broad category of video programming may be deleted without the prior approval of the Director. Prior approval shall not be required for the following:

(1) Programming discontinued without notice to Chronicle Cablevision of Hawaii; and

(2) Programming changes beyond the control of Chronicle Cablevision of Hawaii.

(c) Chronicle Cablevision of Hawaii, on its own accord, may add broad categories of video programming to its basic service tier and the prior approval of the Director shall not be required therefor.

(d) Chronicle Cablevision of Hawaii shall provide notice to the Director at least thirty (30) days in advance of any changes in its channel lineup.

Section Seven

Public, Educational, and Governmental Access

7.1. Access Plan and Implementation

(a) Chronicle Cablevision of Hawaii shall work with the Director's staff, consultants, and others designated by the Director to develop for the Director's approval and to implement coordinated plans for the use of public, educational, and governmental access facilities and equipment for the City and County of Honolulu, and the Counties of Maui and Hawaii. The plans shall at a minimum consider the following:

(1) Resources available on the City and County of Honolulu, and the Counties of Maui and Hawaii for access use;

(2) User needs and interests;

(3) Models for providing public, educational, and governmental access;

(4) Management of access facilities and equipment, including the interconnection of the cable systems within the City and County of Honolulu, and the Counties of Maui and Hawaii, the activation of additional access

channels, the scheduling of channel capacity, guidelines for the interim use of access channel(s) by the cable operator, and the provision of facilities and equipment for the production of programming, including local original programming;

(5) Coordination of access with HITS (Hawaii Interactive Television System), HAWAIIAN (HAWAII Wide Area Integrated Information Access Network) or any other interconnects; and

(6) Coordination of access with the Institutional Network as set forth above in paragraph 5.3.

(b) The access plans for the three (3) counties shall be developed within the context of this Order and may not materially change Chronicle Cablevision of Hawaii's obligations under the Terms and Conditions of this Order. Chronicle Cablevision of Hawaii, on its own accord, may exceed the performance parameters of the obligations imposed by this Order. In said situation, the requirements of the access plans may be modified by mutual agreement between the Director, Chronicle Cablevision of Hawaii, and others designated by the Director.

7.2. Access Fee

(a) As hereinafter provided in paragraphs 7.2(b) and 7.2(c), during each and every year for the remaining term of the franchise, Chronicle Cablevision of Hawaii shall pay to an account designated by the Director or his designee an amount up to three (3) percent of its Gross Revenues. These payments shall be used for public, educational, and governmental access uses.

(b) For the years ending December 31, 1990 through December 31, 1995, Chronicle Cablevision of Hawaii shall pay on the due dates shown, to an account designated by the Director or his designee, an annual Access Fee equal to the greater of the amounts shown below for all of its cable systems in the State of Hawaii or the following percentages:

<u>Area</u>	<u>PEG Access Percentage of Gross Revenues</u>
Hawaii Kai	3%
Maui	3%
Molokai	2%
Lanai	2%
Ka'u	2%

<u>Due Date</u>	<u>PEG Access Fee</u>
February 28, 1991 (for the year ending December 31, 1990)	\$ 17,000
December 31, 1991	\$273,000
December 31, 1992	\$294,000
December 31, 1993	\$315,000
December 31, 1994	\$338,000
December 31, 1995	\$361,000

(c) For the years ending December 31, 1996 through the end of the franchise term, the Access Fee shall be three (3) percent of Gross Revenues for all Chronicle Cablevision of Hawaii cable systems in the State of Hawaii.

(d) The Access Fee required pursuant to paragraphs 7.2(a), 7.2(b), and 7.2(c) may be reconsidered by the Director at the following times:

(1) By December 31, 1995 to determine the Access Fee for the years ending December 31, 1996 through December 31, 2000 based on the Director's consideration of the community's needs.

(2) Upon transfer of the franchise.

(e) The amount of the Access Fee required pursuant to paragraphs 7.2(a), 7.2(b), and 7.2(c) may be reconsidered by the Director based on consideration of the financial

condition of Chronicle Cablevision of Hawaii, the community needs, and other factors the Director deems necessary.

(f) The Access Fee shall be calculated on the estimated annual Gross Revenues for the calendar year. Adjustments to the Access Fee due to differences between the estimated and actual Gross Revenues will be made within thirty (30) days after the submission of Chronicle Cablevision of Hawaii's annual financial statements to the Director. For the year ending December 31, 1990, the Access Fee shall be calculated from the Gross Revenues for the period from November 23, 1990 to December 31, 1990. The Access Fee for the year ending December 31, 1990 is due by February 28, 1991. If Chronicle Cablevision of Hawaii is entitled to a refund, the Director or his designee shall grant a credit toward the next payment of the Access Fee or make a refund if the last payment of Access Fees has been made. The Director may require Chronicle Cablevision of Hawaii to submit to an audit by the Director's accountant.

7.3. Access Facilities and Equipment

(a) Chronicle Cablevision of Hawaii shall provide to the Director or his designee PEG capital funds for public, educational, and governmental access facilities and equipment as follows:

- (1) For the year ending December 31, 1990, the amount of \$10,000, due February 28, 1991.
- (2) For the years ending December 31, 1991 through December 31, 2000, the aggregate amount of \$490,000, to be paid in the years ending December 31, 1991, December 31, 1992, and December 31, 1993. By March 25, 1991, Chronicle Cablevision of Hawaii shall submit for the Director's prior approval a proposed payment schedule specifying due dates and amounts to be paid.

(b) Any PEG capital funds paid pursuant to paragraph 7.3, shall not be credited to the Access Fee.

(c) Any transfer of the cable system shall require the payment to the Director or his designee of the outstanding PEG capital funds for public, educational, and governmental access pursuant to paragraph 7.3 before the effective date of the transfer. The Director reserves the right to waive or to reduce the amount due under this paragraph for good cause.

(d) For purposes of paragraph 7.3, "PEG capital funds" means the sum of money set apart specifically for public, educational, and governmental access facilities and equipment.

7.4. Access Channels

(a) By February 28, 1991, Chronicle Cablevision of Hawaii shall make one full-time activated channel for public, educational, and governmental access for its cable systems in Hawaii Kai on the island of Oahu, Maui County, and Ka'u on the island of Hawaii.

(b) Chronicle Cablevision of Hawaii shall make additional channels available for public, educational, and governmental access on the following schedule:

(1) By January 1, 1994, two (2) additional channels in Hawaii Kai on the island of Oahu.

(2) By January 1, 1996 or upon completion of the 40-channel upgrade required by paragraph 5.1(b)(1), whichever occurs earlier, two (2) additional channels in Maui County.

(3) By January 1, 1996 or upon completion of the 36-channel upgrade required by paragraph 5.1(d)(1), whichever occurs earlier, one (1) additional channel in Ka'u on the island of Hawaii.

(4) Chronicle Cablevision of Hawaii may use the access channels required under subparagraphs 7.4(b)(1), 7.4(b)(2), and 7.4(b)(3) until such time as those channels are activated in accordance with the policies and procedures for activation determined under paragraph 7.1 above.

(c) All access channels, once made available, shall be used for public, educational, and governmental access and shall be transmitted to all subscribers on Chronicle Cablevision of Hawaii's basic service tier.

(d) Chronicle Cablevision of Hawaii shall be permitted to use time on the access channel(s) whenever such access channel is not scheduled for use; provided that any such use by Chronicle Cablevision of Hawaii shall at all times be subordinated to access programming and shall be preempted by access programming. Any such use shall be subject to guidelines established by the Director or Director's designee or as established pursuant to paragraph 7.1.

(e) All non-access programming on access channel(s) shall be identified as such by an appropriate announcement made prior to and following each non-access use.

7.5. Access Organization

The Director may designate one or more entities to fund, control, manage or operate access facilities and equipment.

7.6. Access Transition

(a) Chronicle Cablevision of Hawaii shall continue to fund and operate its existing access facilities and equipment until it receives notice from the Director to alter its present activities pursuant to paragraph 7.1 above. Access shall be made available for non-commercial use on a first-come, nondiscriminatory basis to all persons or groups requesting use of public, educational, and governmental channels.

(b) All equipment presently devoted exclusively to access use shall be transferred upon the receipt of notice from the Director pursuant to paragraph 7.5 above.

(c) All expenses relating to access operations paid within a given calendar year by Chronicle Cablevision of Hawaii shall be credited towards the next annual Access Fee

payment; however, the value of any facilities and equipment required to be transferred pursuant to paragraphs 7.5 and 7.6(b) above shall not be credited toward the payment of any Access Fee or PEG capital funds.

7.7. Reporting Requirements

(a) By April 30 of each year, Chronicle Cablevision of Hawaii shall submit to the Director a report of local origination expenses and a report for access programming expenses for the preceding calendar year.

(b) For the purposes of accounting for amounts expended for local origination and access programming, Chronicle Cablevision of Hawaii shall only include an appropriate portion of Chronicle Cablevision of Hawaii's total operating expenses associated with local origination and access programming. Such portions of the total operating expenses shall reflect only necessary and reasonable expenses which can be specifically identified with, or allocated to, local origination and access programming in accordance with the benefits provided by the resources presented by the expenses. For the purposes of this paragraph, resources used for local origination and to comply with the access requirements shall be deemed to benefit local origination and access programming. In addition to operating expenses, amounts expended for local origination and access programming may include an annual depreciation allowance for local origination and access related equipment and facilities, as calculated over the assets' useful lives.

(c) Amounts expended for local origination and access programming shall be subject to the State's review in conjunction with the State's review of Chronicle Cablevision of Hawaii's annual financial report. Chronicle Cablevision of Hawaii shall make such changes in its accounting for local origination and access programming expenditures as the State may reasonably require consistent with generally accepted accounting principles. Unless and until any such change is required, Chronicle Cablevision of Hawaii may continue to account for local origination and access programming expenses in the same manner as it has in the past. If the State has not required changes within six (6) months of the State's actual receipt of Chronicle Cablevision of Hawaii's local origination and access programming expenditure reports,

then Chronicle Cablevision of Hawaii's accounting for local origination and access programming shall be deemed accepted by the State.

7.8. Payment by The Chronicle Publishing Company

(a) Within thirty (30) days from the date of this Order, The Chronicle Publishing Company shall pay to the Director the amount of \$30,000. This amount shall be in full and complete satisfaction of past disputes between the Director and Chronicle Cablevision of Hawaii. This amount shall be used to support public, educational, and governmental access for the areas of Hawaii Kai on the island of Oahu, the County of Maui, and Ka'u on the island of Hawaii.

(b) The amount paid by Chronicle Cablevision of Hawaii pursuant to paragraph 7.8(a) will have no effect on the Access Fee paid pursuant to paragraph 7.2 or PEG capital funds paid pursuant to paragraph 7.3.

(c) The amount paid by Chronicle Cablevision of Hawaii shall not be passed through to Chronicle Cablevision of Hawaii's subscribers in any form.

Section Eight

Miscellaneous

8.1. The Director hereby expressly reserves the right to regulate rates to the extent permitted by law.

8.2. Consistent with Section 612(b) of the Cable Communications Policy Act of 1984, on or before June 30, 1991, Chronicle Cablevision of Hawaii shall file with the Director and implement a published schedule of terms, conditions, and charges for the leasing of cable channels for commercial use.

8.3. (a) This Order shall not be construed as exempting Chronicle Cablevision of Hawaii or any affiliated or controlling entities from any antitrust law.

(b) This Order does not constitute an adjudication upon any antitrust issues which may be involved in this proceeding.

8.4. Chronicle Cablevision of Hawaii, its employees, and agents, shall be familiar with all federal, state, and local laws, ordinances, rules and regulations that in any manner affect the Chronicle Cablevision of Hawaii cable system. If Chronicle Cablevision of Hawaii discovers any provision in the plans, specifications, orders or documents which is contrary to or inconsistent with any such law, ordinance, rule or regulation, Chronicle Cablevision of Hawaii shall promptly report it to the Director in writing. Chronicle Cablevision of Hawaii, its employees, and agents, shall comply with all applicable federal, state, and local laws, rules and regulations issued pursuant thereto and shall indemnify the State against any loss, liability or damage occasioned by reason of a violation of this paragraph.

8.5. The failure of the State at any time to require performance by Chronicle Cablevision of Hawaii of any condition of this Order shall in no way affect the right of the State to enforce the same. The waiver by the State of any breach of any condition of this Order shall not be taken or held to be a waiver of any succeeding breach of such condition or as a waiver of the condition itself.

8.6. Chronicle Cablevision of Hawaii shall save and hold the State and its officials, agents, and employees free and harmless from any loss, expense or damage to person or property arising out of or resulting from any provision or requirement of the franchise or exercising its rights or performing its duties under this franchise.

8.7. The Director reserves the right to waive any condition of this Order for good cause.

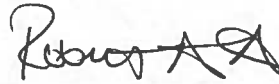
8.8. Time is of the essence with respect to this Order.

8.9. The State may, from time to time, adopt or issue such rules, orders or other directives governing Chronicle Cablevision of Hawaii as it shall find necessary or appropriate in the exercise of its police power. The Director may, from time to time, issue such orders governing Chronicle Cablevision of Hawaii as he shall find reasonably necessary or appropriate pursuant to and in furtherance of the purposes of this Order. The Director's authority shall not be used in a manner inconsistent with the provisions of this Order. Further, any action to be taken by the Director regarding this Order shall be taken in accordance with the applicable provisions of federal or State law, as said law may be amended or modified throughout the term of this Order. Chronicle Cablevision of Hawaii shall comply with all rules, regulations or orders lawfully binding upon it or other directives issued pursuant to this Order.

8.10. Chronicle Cablevision of Hawaii shall submit audited financial statements for years ending December 31, 1990 and 1991. For the years subsequent to the year ending December 31, 1991, Chronicle Cablevision of Hawaii shall submit financial statements audited or reviewed by an independent certified public accountant for so long as long-term debt is reflected in the books and records of Chronicle Cablevision of Hawaii from whatever source.

NOW, THEREFORE, it is hereby ordered that the Amended Terms and Conditions of Decision and Order No. 141, attached hereto and incorporated by reference, shall reflect all terms and conditions of the franchise renewal approved in Decision and Order No. 141 dated November 23, 1990, and shall supersede the Terms and Conditions set forth in Decision and Order No. 141.

DATED: Honolulu, Hawaii, January 24, 1991.

A handwritten signature in dark ink, appearing to read "Robert A. Alm", written over a horizontal line.

ROBERT A. ALM
Director of Commerce and Consumer
Affairs

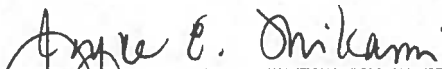
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DECISION AND ORDER NO. 148 in Docket No. 90-03 was served upon the following parties at the addresses shown below by mailing the same, postage prepaid, on this 24th day of January, 1991:

Christopher J. Lammers
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Honolulu, Hawaii 96813



Joyce E. Mikami
Secretary