

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMERICAN TELEVISION AND  
COMMUNICATIONS CORPORATION and  
COX CABLE COMMUNICATIONS, INC.,

Defendants.

Civil Action No. 17573

Filed: December 20, 1972

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action against the defendants named herein, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This Complaint is filed and this action is instituted against the defendants under Section 15 of the Act of Congress of October 15, 1914, as amended (15 U.S.C. §25), commonly known as the Clayton Act, to prevent and restrain the violation by the defendants, as hereinafter alleged, of Section 7 of said Act (15 U.S.C. §18).

2. Defendant Cox Cable Communications, Inc. (hereinafter Cox Cable) transacts business and may be found within the Northern District of Georgia, Atlanta Division.

## II

### THE DEFENDANTS

3. ATC is named a defendant herein. ATC is a corporation organized and existing under the laws of the State of Delaware and maintains its executive headquarters in Denver, Colorado. It is engaged in substantial interstate commerce throughout the United States in the operation of its cable television system and microwave common carrier relay businesses. At year ended June 30, 1972, ATC had revenues of \$14.7 million and assets of \$53,236,259.

4. Cox Cable is named a defendant herein. It is a corporation organized and existing under the laws of the State of Delaware and maintains its executive headquarters in Atlanta, Georgia. It is engaged in substantial interstate commerce throughout the United States in the operation of its cable television system and microwave common carrier relay businesses. Its revenues in 1971 amounted to \$13.5 million; its assets in that year were \$30,677,423.

## III

### TRADE AND COMMERCE

5. Cable television systems distribute television and other signals by cable to subscribers. The television signals originate from local and distant television broadcasting stations and are received off the air by high antennas or by microwave relay. The signals are then amplified and distributed on a cable distribution network to the premises of subscribers where they are received by individual television sets connected to the system. Cable television systems can also deliver other types of programming by feeding signals directly into the system. Rapidly developing technology and the capability of coaxial cable to transmit

many channels at a time make cable television a potential medium for such services as data transmission, meter reading, burglar alarm systems and shop-at-home as well as more traditional entertainment programming such as first-run motion pictures and sports events. The right to operate a cable television system in a locality generally depends on obtaining a franchise from the city or other political subdivision. Most franchises are awarded for a period of years on what amounts to an exclusive basis.

6. Until recently, the growth of cable television has occurred primarily in rural areas and small towns. Recent relaxation of certain regulations of the Federal Communications Commission has made more attractive the development of cable television systems in the more densely populated urban metropolitan areas, particularly in the top 100 television markets. At the same time other regulations adopted by the FCC have made construction of systems in these markets more expensive. A substantial number of the top 100 television markets have not yet fully granted authorization for the construction of cable television facilities.

7. Approximately thirty companies have been actively competing for the franchises to construct a cable television system in the largest cities in the 100 major television markets. These companies consist almost entirely of large multiple system operators who have the existing subscriber base, management, experience, and ability to raise the capital needed to successfully construct and operate a cable television system in the 100 major markets. During the past five years at least five companies capable of competing for franchises in the major television markets have been acquired by or merged with a competitor. Both ATC and Cox Cable are substantial factors in the competition for cable television franchises in the major television markets.

8. ATC was formed in 1968 as a consolidation of cable systems owned by various companies. It then served approximately 57,000 subscribers through 28 cable television systems located in 11 states. Since that time, ATC has acquired ownership of 15 companies which operated 43 cable television systems. In August 1972, it owned 74 cable systems in 21 states serving about 280,000 subscribers and had a potential subscriber base of more than one million. In terms of subscribers it ranks fourth among all cable television companies. ATC has been one of the most active and successful competitors for major market franchises; it is presently bidding for nine such franchises and holds eleven. It has been a major factor in the development of the cable television industry particularly in terms of program origination and experimental use of such technology as two-way communications.

9. Cox Cable was formed in 1964 as a subsidiary of Cox Broadcasting Corporation (Cox). In 1968 all of the cable systems then operated by Cox, serving about 140,000 subscribers, were transferred to Cox Cable in exchange for two million shares of Cox Cable stock. Cox, which presently owns 56.2% of Cox Cable stock, is a diversified communications company which owns television and radio properties as well as trade publications in various fields. In August 1972 Cox Cable operated or had interests in 32 cable television systems in 14 states serving approximately 230,000 subscribers and had a potential subscriber base of more than 1.6 million. In terms of subscribers it ranks fifth among all cable television companies. Cox Cable has been one of the most active and successful competitors for major market franchises; it is presently bidding for three such franchises and holds seven. It has been a major factor in the development of the cable television industry particularly in terms of program origination and experimental use of such technology as two-way communications.

IV

OFFENSE CHARGED

10. Defendants ATC and Cox Cable entered into an agreement on or about November 8, 1972, pursuant to which ATC will acquire all of the stock of Cox Cable. This acquisition is scheduled to be consummated on or after December 20, 1972.

11. The effect of the aforesaid acquisition may be substantially to lessen competition or to tend to create a monopoly in the aforesaid trade and commerce in violation of Section 7 of the Clayton Act, in the following ways, among others:

(a) Competition between ATC and Cox Cable for cable television franchises, particularly in the 100 largest television markets, will be permanently eliminated;

(b) Competition generally for cable television franchises, particularly in the 100 largest television markets, will be substantially lessened;

(c) Concentration in the number of companies capable of competing for franchises in the major television markets will be increased; and

(d) Mergers of other major cable television companies may be fostered and encouraged.

PRAYER

WHEREFORE, the plaintiff prays:

1. That a preliminary injunction be issued preventing and restraining ATC from acquiring the stock of Cox Cable and preventing and restraining ATC and Cox Cable from taking any action in furtherance of the agreement to merge described in paragraph 10 above, or any similar agreement, pending final adjudication of the merits of this complaint.

2. That the acquisition by ATC of the stock of Cox Cable be adjudged and decreed to be unlawful and in violation of Section 7 of the Clayton Act.

3. That defendants and all persons acting on their behalf be permanently enjoined from carrying out the aforesaid agreement of merger, or any similar plan or agreement, the effect of which would be to merge, consolidate, or in any other way combine the business of said defendants.


4. That pursuant to Section 15 of the Clayton Act an order be made and entered herein requiring defendant ATC to be brought before this court in this proceeding and directing the United States Marshal of the District of Colorado to serve a summons upon it.

5. That the plaintiff have such other relief as the court may deem just and proper.

6. That the plaintiff recover the costs of this action.

  
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Attorney General

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JOAN S. HUGGLER

  
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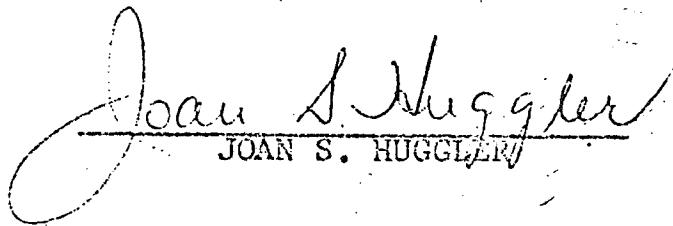
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WILLIAM E. SWOPE

Attorneys, Department of Justice

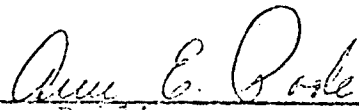
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United States Attorney

CITY OF WASHINGTON )  
DISTRICT OF COLUMBIA ) SS:

JOAN S. HUGGLER, being duly sworn, deposes and says that she is an attorney employed by the Department of Justice of the United States; that she has been actively engaged in the preparation of this proceeding; that she has read the foregoing complaint and knows the contents and is familiar with the subject matter thereof; that she is informed and believes the allegations of fact contained therein are true; and that the sources of her information are written statements, data and documents submitted to the Department of Justice by the defendants and others, and other data and information obtained from recognized trade sources.

  
JOAN S. HUGGLER

Subscribed and sworn to before me  
this 19 day of Dec. 1972.

  
Notary Public

My Commission Expires March 31, 1973