

## Communications

We offer comprehensive representation to clients with regard to business, regulatory, corporate, and transactional matters.

Our team's experience is vast, including serving as counsel to rural incumbent local exchange carriers (ILECs), municipal regulators, and new market entrants. Fluent in all aspects of communications law, we are well-positioned to handle transactional, regulatory, and litigation matters on behalf of clients. We also have a deep understanding of the complexities of the communications sector on both the industry and government regulator sides, giving us broader insight into how our clients can effectively achieve their goals.

### Regulatory Proceedings, Compliance, and Litigation

Our regulatory counsel focuses on matters before the Federal Communications Commission (FCC), state public utility commissions, and local units of government. Areas of counsel include:

- Advising entities in proceedings arising under the Federal Cable Act with communications contracting, including cable franchising, pole attachment agreements, and right of way (ROW) regulation
- Assisting clients in proceedings arising under the Telecommunications Act of 1996, including unbundled network element cost cases, wholesale service performance disputes, and related matters
- Obtaining state telecommunications certifications and other state regulatory approvals
- Representing clients in regulatory proceedings related to the FCC's Over-The-Air Reception Devices Rule (OTARD) and central distribution systems that service multitenant premises
- Advising in state and federal regulatory proceedings

### Court Proceedings, Arbitrations, Negotiations, and Complaint Proceedings

Experienced at every stage of the regulatory review process, we begin most representations by preparing filings, pleadings, and testimony. Our participation in regulatory hearings includes conducting cross-examinations, drafting briefs, and giving oral arguments. We bring resolution to matters through negotiating settlements and trying matters through to judicial appeal. As a known and respected presence before numerous local and state regulatory bodies, Moss & Barnett places clients in the forefront of regulatory compliance matters.

We offer clients a litigation-tested team trusted in telecommunications disputes. We represent clients in interconnection arbitrations and access "reform" proceedings before state regulatory commissions. In addition, our communications team represents ILECs and competitive local

exchange carriers (CLECs) in state and federal appellate proceedings, including matters related to unbundled network element pricing, wholesale service performance standards, and intercarrier compensation.

## Transactional and Strategic Business Counsel

Armed with a valuable perspective on the telecom industry and a productive network of relationships in various local, regional, and national markets, we use our regulatory insights to assist clients with organizational, transactional, and strategic matters.

Understanding the transactional climate is especially important in an evolving industry. Our communications law team advises clients on mergers, acquisitions, and other strategic transactions. We assist our clients through the entire process, from identifying and structuring the deal to obtaining legal and regulatory approvals.

## Municipal Communications Counsel

Moss & Barnett represents municipalities throughout the nation on cable and telecommunications issues. We work closely with local city lawyers and city staff to determine objectives at the start of franchising projects and to develop a process and negotiation strategy to help our clients achieve their objectives.

Our team has more than 30 years of experience in the cable communications industry. We are well-versed in industry practices, having handled transactions with virtually all of the top 10 cable operators in the United States.

As a full service law firm, we also assist telecommunications clients in exploring non-telecommunications business opportunities. We often handle general corporate matters and commercial litigation for our communications clients.

## Experience

- **Long-term communications counsel to Seattle.** In our decade-long counsel to the city of Seattle, our representation on various communications law issues includes:
  - Serving as lead counsel to negotiate and complete renewal of Comcast Communication's cable franchise
  - Serving as lead counsel to negotiate and complete renewal of the Millennium Digital Media cable franchise and subsequent transfer of control

- Drafting agreements for the city to create “Arts Zone” funding for a public, educational, and governmental (PEG) channel
- Creating a trademark for the “Arts Zone” in Seattle
- Drafting fiber construction agreements for the city
- Acting as counsel in an 800-megahertz rebanding proceeding with the FCC and Sprint Nextel
- Resolving a 2012 transfer and bankruptcy action involving Broadstripe Communications, which resulted in a \$750,000 settlement for the city
- Redrafting the code of ordinances related to the city’s regulation of cable and communications services

Seattle’s population exceeds 500,000 and cable operators serve nearly 200,000 subscribers. Moss & Barnett lawyers work closely with the city attorney’s office and Seattle’s Department of Information and Technology to negotiate successful solutions on behalf of the city.

- **Precedent-setting denial of cable franchise renewal.** Moss & Barnett represented the city of Sturgis, Kentucky, which became the first municipality in the country – and one of only three under the Federal Cable Act – to deny successfully a cable operator’s request for franchise renewal. We successfully argued that the cable operator’s proposal was not reasonable to meet the future cable-related needs and interests identified by the city. Brian represented Sturgis throughout the renewal process and personally prepared its needs assessment report, which the federal district court cited extensively in upholding the city’s denial. *Union CATV, Inc. v. City of Sturgis, et al.*, No. 4:95-CV-72-M (U.S. Dist. Ct., W. Dist. of Ky. at Owensboro, Dec. 29, 1995); *Union CATV, Inc. v. City of Sturgis, Kentucky*, 107 F.3d 434 (6th Cir. 1997).
- **Communications counsel to Chicago.** For nearly a decade, Moss & Barnett has served as outside counsel to the city of Chicago. Our representation on various communications law issues includes:
  - Renewals of Comcast cable franchise (now state-issued franchise)
  - Development of a comprehensive broadband RFP for the city
  - Drafting right of way use agreement and IRU agreements with private communications providers seeking access to city ROWs
  - Providing assistance on renewal of RCN cable franchise and subsequent transfer of control
  - Drafting comments for the city in proceedings before the FCC
  - Redrafting the code of ordinances related to the city’s regulation of cable and communications services (now covered by state law)

## Professionals

Ryan P. Barlow

Yuri B. Berndt

Kelly C. Engebretson

Brian T. Grogan

Terri L. Hammer

Richard J. Johnson

Katherine J. Marshall

Patrick T. Zomer

## News

Attorney Ryan P. Barlow Joins Moss & Barnett

05.21.2024

Brian T. Grogan Re-elected and Brian J. Schoenborn Elected to Moss & Barnett Board of Directors

01.24.2024

Moss & Barnett Congratulates Our Lawyers Selected for Inclusion in *The Best Lawyers in America* and *Best Lawyers: Ones to Watch* for 2024

08.17.2023

Moss & Barnett Congratulates Our 2023 Minnesota *Super Lawyers* and *Rising Stars*

07.17.2023

Moss & Barnett Congratulates Our Lawyers Selected for Inclusion in *The Best Lawyers in America*, *Best Lawyers: Ones to Watch*, and *Best Lawyers "Lawyers of the Year"* for 2023  
*The Best Lawyers in America*, 08.18.2022

Brian T. Grogan and James J. Vedder Re-elected to Moss & Barnett Board of Directors

02.04.2021

Moss & Barnett Announces New Shareholders: Kathy Y. Allen, Kelly C. Engebretson, Brittney M. Miller, John M. Schmid, and Alex R. Schoephoerster

01.20.2021

VoIP Telephone Remains Beyond the Minnesota Commission's Jurisdiction

*Moss & Barnett Advocate (Fall 2019 edition)*, 12.06.2019

Moss & Barnett Opens St. Cloud Office

07.09.2018

Brian Grogan and Jim Vedder Elected to Board of Directors

03.27.2018

Nicholas J. Kaster and Patrick T. Zomer Elected Shareholders of Moss & Barnett

03.23.2018

## Events

Franchising and Right-of-Way Management

National Association of Telecommunications Officers and Advisors, Hyatt Regency Long Beach Hotel, Long Beach, CA, 10.04.2023

State and Federal Law Governing Communications Providers

State and Federal Law Governing Communications Providers | Minnesota Association of Community Telecommunications Administrators, Bunker Hills Event Center, Coon Rapids, MN, 06.20.2023

OTT Local Revenue Implications

National Association of Telecommunications Officers and Advisors 42nd Annual Conference, Sheraton Downtown Denver Hotel, Denver, CO, 08.31.2022

Recent Cable Franchises: Trends and Impacts

eNATOA Webinar, 02.14.2022

Cable Franchising – Now and Later

Washington Association of Telecommunications Officers & Advisors (WATOA) 2021 Annual Conference, Chelan, Washington, 10.28.2021

Contract Compliance and Enforcement

Minnesota Association of Community Telecommunications Administrators 38th Annual Conference & Trade Show, Bunker Hills Event Center, 12800 Bunker Prairie Road, Coon Rapids, MN 55448 (In-Person and Virtual), 10.19.2021

Cable Law and Policy: Over the Top (OTT) Programming Impacts on Franchising and Right-of-Way Fees

International Municipal Lawyers Association 2021 Annual Conference (In Person and Virtual), Hilton Minneapolis, 1001 South Marquette Avenue, Minneapolis, MN 55403, 10.01.2021

The Cord-Cutting Crusade: The Evolving Rise of OTT

2021 National Association of Telecommunications Officers and Advisors Annual (NATOA) Conference (Virtual), 09.21.2021

Municipalities "Rights" in the Right-of-Way

National Association of Telecommunications Officers and Advisors (NATOA) Webinar, 05.24.2021

Cable Franchises & Renewals Q&A

National Association of Telecommunications Officers and Advisors 2020 Annual Conference, 09.02.2020

Cable Franchise Management for a New Decade

Washington Association of Telecommunications Officers & Advisors Webinar, 06.25.2020

Moss & Barnett is Silver Sponsor of the 2018 MTA Annual Convention  
2018 Minnesota Telecom Alliance Annual Convention and Trade Show, Hyatt Regency Minneapolis,  
1300 Nicollet Mall, Minneapolis, MN, 03.26.2018

## **Publications**

Handy at Bandy – Kelly Engebretson Keeps it Cool on the Ice  
*Minnesota Super Lawyers Magazine 2021, 07.22.2021*

Practicing With Purpose in the Commercial World  
*Spring 2015 Firm Newsletter\*, 03.20.2015*

