

# Joseph P. Benkert, P.C.

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## REPRESENTATIVE EXPERIENCE

Joseph P. Benkert, P.C. offers clients a rare breadth and depth of experience in telecommunications, corporate, transactional, administrative and litigation matters.

### Telecommunications Practice Experience

Joseph P. Benkert's telecommunications industry assignments have included:

For broadcasters:

- Negotiating purchases and sales of broadcast stations, and prosecuting applications for FCC consent to such transactions.
- Negotiating of time brokerage agreements .
- Representing parties in FCC channel allotment proceedings, including upgrades of FM channel allotments.
- Prosecuting applications for new broadcast licenses, including comparative licensing proceeding under the FCC's former rules, and auctions under current rules.
- Prosecuting and defending against petitions to deny FCC licenses, and representing parties in FCC enforcement proceedings.
- Advising broadcast licensees regarding FCC rules and regulations, including equal employment opportunity requirements and regulations pertaining to program content and political advertising.
- Advising broadcast network regarding FCC network regulations.
- Negotiating network and programming agreements.
- Representing national association in dispute with federal government over increase in communications site use fees, and in numerous FCC rulemaking proceedings.

For interexchange carriers:

- Representing resellers of long distance services in complaint proceedings before the FCC and in an antitrust complaints against underlying carrier in federal district court.

- Prosecuting applications of interexchange resellers to state utility commissions for certificates of public convenience and necessity.
- Representing major interexchange carrier in state utility commission proceedings under the Telecommunications Act of 1996 to set incumbent local exchange carrier rates for unbundled network elements, under co-counsel arrangement.

For police and public safety operators:

- Representing police agency in connection with interference to vital public safety communications caused by operations of a radio broadcast station.
- Representing fire district in dispute over interference with county government facilities.
- Negotiating E-911 service agreements with wireless service providers.
- Negotiating purchase of Computer-Aided Dispatch system.
- Negotiating Emergency Notification Service agreement.
- Preparing RFP, participating on vendor selection committee, and negotiating purchase agreement for call routing system.
- Preparing RFP, participating on vendor selection committee, and negotiating purchase agreement for 911 Center consoles.
- Preparing RFP, participating on vendor selection committee, and negotiating purchase agreement for call recording system.
- Representing 911 Authority in dispute with equipment and systems vendor.
- Representing 911 Authority in complaint against Local Exchange Carrier and negotiate settlement reducing monthly service fees by approximately 60% and obtaining refund of fees.

For providers of private carrier services:

- Advising private carrier on compliance with federal and state regulations governing the provision of non-common carrier services in a major metropolitan market.
- Representing private carrier providing interstate service in multimillion dollar equipment financing.
- Negotiating acquisitions of private carrier networks.
- Negotiating rights-of-way and service agreements.
- Prosecuting formal complaint to the FCC against former Bell Operating Company.
- Preparing customer agreements and standardized forms for such agreements.
- Negotiating mergers with and acquisitions of complementary service providers.

- Preparing comprehensive analysis of telecommunications market and identifying legal obstacles to potential investment.

For competitive local exchange provider (“CLEC”):

- Prosecuting formal complaint to the FCC against incumbent local exchange provider, and negotiated settlement agreement.
- Representing CLEC in state utility commission costing and pricing proceedings under the Telecommunications Act of 1996, including coordination of activities of local counsel in five state region and with allied CLECs.

For alternative access providers:

- Representing providers in interconnection and collocation proceedings before the FCC and state commissions.
- Representing providers in tariff disputes before state commission.
- Negotiating long term financing in the amount of \$88 million.
- Advising providers regarding regulatory strategy.

For telecommunications site owners:

- Representing site owner in dispute before FCC involving electronic interference between site lessees.
- Negotiating lease agreements on behalf of telecommunications site owners, including a comprehensive lease agreement with multiple site lessees.
- Defending against complaint and notice alleging violation of local land use regulations.
- Prosecuting application for rezoning to permit development of telecommunications tower site.

For an enhanced services provider:

- Advising regarding FCC and state Open Network Architecture (“ONA”) rules.

For potential investor in telecommunications:

## Corporate and Transactional Experience

Examples of transactions in which Joseph P. Benkert has represented clients include:

- Numerous purchases and sales of broadcast stations licensed by the Federal Communications Commission, including both asset and stock purchases.
- Negotiation of time brokerage agreements.
- Preparation of Internet web site development agreements.

- Development of and participation in investor presentations.
- Preparation of employment agreements.
- Preparation of model customer agreements.
- Negotiation of partnership buy-out.
- \$3.5 million acquisition of an information services company providing facilities to information service providers nationwide.
- \$2.5 million acquisition of a competitive access Provider (“CAP”) located in the Southeastern United States.
- Acquisition of a minority interest in a firm holding rights to telecommunications resources in eastern Europe for approximately \$2.5 million in equipment and bridge financing.
- \$8.7 million subsidiary merger with VSAT services provider.
- \$3.85 million acquisition of CAP located in the Midwestern United States.
- \$26.9 million acquisition of two CAPs serving major metropolitan areas in California.
- Acquisition of control of company owning intellectual property rights and holding experimental licenses issued by the Federal Communications Commission, for consideration of approximately \$9.9 million in cash and stock and \$4 million in loans and loan commitments.
- \$2 million acquisition of network services company.
- \$35 million loan from consortium of banks.
- \$18 million credit facility.
- \$300 million private placement.

## Litigation Experience

Examples of litigation matters in which Joseph P. Benkert has represented clients include:

- Prosecuting state and federal antitrust claims and claims under the Communications Act of 1934, as amended, and prosecuting claims for violation of FCC regulations in related FCC formal complaint proceedings, against facilities-based interexchange carriers on behalf of resellers of interexchange services.
- Prosecuting claims of destructive interference against FM radio station licensee in state court and FCC proceedings on behalf of telecommunications site owner.
- Representing broadcast licensees and petitioners in FCC petition to deny (license) proceedings.

- Prosecuting formal complaint to the FCC against incumbent Local Exchange Carrier on behalf of Competitive Access Provider.
- Representing physician recruitment firm in arbitration of fee dispute with hospital.
- Prosecuting appeal of county denial of building permit.
- Representing broadcast station licensee in state court litigation arising out of purchase of broadcast station.
- Prosecuting administrative and federal judicial appeals of FCC dismissal of application for construction permit for new broadcast station.
- Representing individuals in dissolution of marriage proceedings.
- Representing joint venturer in dispute with co-venturers and dissolution of joint venture.
- Representing 9-1-1 Authority in complaint before Public Utilities Commission against Local Exchange Carrier.
- Representing media broker in claim for commission.
- Representing franchisee in defense of claims by franchisor including claims for fees and for trademark infringement.