
FCC DOCKET SUMMARIES

The following is a listing of significant Federal Communications Commission ("FCC" or "Commission") actions that were initiated from March through October 1996. The docket summaries are organized numerically according to the FCC bureau responsible for the matter. The docket summaries provide brief synopses and citations to the full text of the FCC action, but are not intended to serve for the text contained in the original sources.

CABLE SERVICES

FCC DOCKET NO. 96-83; CS DOCKET NO. 96-83; IB DOCKET NO. 95-59: Restrictions on Over-the-Air Reception Devices: Television Broadcast Service and Multichannel Multipoint Distribution Service; *In re* Preemption of Local Zoning Regulation of Satellite Earth Stations; *In re* Implementation of Section 207 of the Telecommunications Act of 1996, *Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rule Making*, Aug. 6, 1996.

Pursuant to Section 207 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("Telecomm Act"), the Commission is authorized to promulgate regulations prohibiting restrictions which impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services. This *Report and Order* consolidates of two Rule Making proceedings involving Section 207. In IB Docket No. 95-59, the Commission adopted rules prohibiting certain restrictions on satellite antenna reception, including a rule partially implementing Section 207 by prohibiting governmental restrictions on reception by direct broadcast satellite (DBS) service receiving devices. In CS Docket No. 96-83, the Commission sought comment on a similar proposed rule to implement Section 207 for restrictions on over-the-air reception for television broadcast service (TVBS) and multichannel multipoint distribution service. The *Report and Order's* consolidated rule generally prohibits any restrictions that impair the installa-

tion, maintenance or use of an antenna that is designed to receive direct broadcast satellite service, provided the antenna is one meter or less in diameter. Any exceptions to this rule must involve safety concerns, historic districts or an unusual circumstance.

The *Further Notice of Proposed Rule Making* seeks comment on the Commission's legal authority to prohibit nongovernmental restrictions that impair reception by viewers who do not have exclusive use of control and a direct or indirect ownership interest in the property.

FCC DOCKET NO. 96-197; CS DOCKET NO. 95-178: *In re* Definition of Markets for Purpose of the Cable Television Mandatory Television Broadcast Signal Carriage Rules, *Report and Order and Further Notice of Proposed Rule Making*, May 24, 1996.

The Commission amended its cable television rules to establish procedures for the determination of local television markets for purposes of the mandatory carriage/retransmission consent election. This action is necessary because the mechanism used by the Commission relies on a commercially published market list that is no longer available. The *Report & Order* switches market definitions from the Arbitron Ratings Company's areas of dominant influence (ADI) to Nielsen Media Research's designated market areas (DMA). However, because of a concern about a smooth transition, the Commission will continue to use Arbitron's 1991-1992 Television ADI Market Guide for the 1996 elections and postpone the switch to Niensens's DMAs until the October 1, 1999, election. The *Further Notice of Proposed Rule Making* solicits additional information concerning the transition to Nielsen's DMAs.

FCC DOCKET NO. 96-316; MM DOCKET NO. 92-266; CS DOCKET NO. 96-157: *In re* Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992; *In re* Cable Pricing Flexibility, *Memorandum Opinion and Order and Notice of Proposed Rule Making*, Aug. 15, 1996.

The Commission combined two proceedings to

address issues related to the pricing of different tiers of regulated service relative to other tiers of regulated service offered on the same system. In the *Memorandum Opinion and Order*, the Commission addressed the requirement that operators use the same ratemaking methodology for all tiers of service. The *Order* requires that consistent rate methodologies be used for the entire period in which an operator is subject to rate regulation on both the basic service tier (BST) and cable programming service tiers (CPST).

In the *Notice of Proposed Rule Making*, the Commission proposed to allow a rate-regulated operator increased flexibility with respect to the pricing of tiers, once the maximum combined rate for all tiers has been established in accordance with the Commission's existing rules. Specifically, the Commission proposed to permit a cable operator that has established rates for its regulated service tiers to decrease the rate for its BST, and then take a corresponding increase in the rate for its CPSTs.

FCC DOCKET No. 96-327; CS DOCKET No. 96-166: *In re* Implementation of Section 703 of the Telecommunications Act of 1996, *Order*, Aug. 6, 1996.

The Telecomm Act is intended to accelerate private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunication markets to competition. Section 703 of the Telecomm Act amends several provisions of Section 224 of the Communications Act. Section 224 ensured that, in seeking to expand, cable operators did not encounter unreasonable obstacles, such as denial of access to poles, ducts, conduits or rights-of-way owned or controlled by utilities. Implementing the amendments, this *Order* simply conforms the Commission's rules to the applicable provisions of the Telecomm Act. Since the rule modifications do not involve discretionary action on the part of the Commission, these rules are revised without prior public notice or an opportunity for comment.

FCC DOCKET No. 96-334; CS DOCKET No. 96-46: *In re* Implementation of Section 302 of the Telecommunications Act of 1996, *Third Report and Order and Second Order on Reconsideration*, Aug. 8, 1996.

The Telecommunications Act of 1996 added Section 653 to the Communications Act of 1934, establishing open video systems as a new framework for entry into the video programming marketplace. Section 653 requires the Commission, within six months, to complete all actions necessary to govern the operation of open video systems. The *Third Report and Order* is in response to the comments the Commission received to its *Order and Notice of Proposed Rule Making*, CS Docket No. 96-85, which sought comment on the definition of "affiliate" in the context of open video systems. In defining "affiliate," for purposes of Section 653, the FCC adopted the attribution standard that the Commission uses in the program access context, which is located in the notes to 47 C.F.R. § 76.501, with slight modifications.

The *Second Order of Reconsideration* addresses issues raised in the nineteen petitions the Commission received for reconsideration of the *Second Report and Order*. In this *Order*, the Commission addresses: the qualifications to be an Open Video System operator; the certification process; the carriage of video programming providers; the rates, terms, and conditions of carriage; the gross revenues fee; the applicability of Title VI provisions; the information provided to subscribers; dispute resolution; and joint marketing, bundling and structural separation.

COMMON CARRIER

CC DOCKET No. 92-77: *In re* Billed Party Preference for InterLATA 0+ Calls, *Second Further Notice of Proposed Rule Making*, 11 FCC Rcd. 7274, June 6, 1996.

In response to the Telecommunications Act of 1996, in which Congress sought to establish a "pro-competitive, de-regulatory national policy framework" for the U.S. telecommunications industry, the Commission responded to the Act's requirement that it prescribe regulations to promote competition among payphone service providers, including promulgating regulations by which payphone owners are compensated for "each and every completed intrastate and interstate call using their payphones" The Commission addressed the issues relating to operator services from payphones.

In its original *NPRM*, the Commission initially concluded that implementation of a billed party

preference (BPP) system for 0+ interLATA traffic, as well as for other types of operator-assisted interLATA traffic, would best serve the public interest. Under BPP, operator-assisted long-distance traffic would be automatically carried by the preselected party being billed for the particular call. Due to the estimated \$1 billion cost, however, the Commission sought further comment.

Following such comment, the Commission modified its earlier Rule Making, and concluded that it should: (1) establish benchmarks for operator service providers' consumer rates and associated charges that reflect what consumers expect to pay and (2) require operator service providers that charge rates and/or allow related premises-owner fees, whose total is greater than a given percentage above a composite of the 0+ rates charged by the three largest interstate, interexchange carriers, to disclose the applicable charges for the call to consumers orally before connecting a call.

The Commission also sought comment on: (1) requiring all operator service providers to disclose their rates of all 0+ calls; (2) the proposed rules to the filing of informational tariffs for interstate operator services; (3) the circumstances under which the Commissions may or must forbear from enforcing tariff-filing requirements applicable to operator service providers; and (4) whether alternative remedies to BPP would better serve the public interest for calls for inmate-only telephones in prisons.

CC DOCKET No. 96-61: *In re Policy and Rules Concerning the Interstate, Interexchange Marketplace Implementation of 254(g) of the Communications Act of 1934, Order and Order Seeking Comment*, Sept. 13, 1996.

The Commission granted a waiver from the requirements of Section 254(g) to American Mobile Satellite Carriers Subsidiary Corporation (AMSC) for good cause shown, pending receipt of public comments. Pursuant to Section 254(g), interstate, interexchange telecommunication service providers "must charge their subscribers in all U.S. states, territories, and possessions rates for such services that are no higher than the rates they charge their subscribers in any other U.S. state, territory, or possession." AMSC requested a one-year extension as it needs time to conform its services with the rate integration requirements.

CC DOCKET No. 96-98; CC DOCKET No. 95-185: *In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; FCC 96-325; In re Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, Aug. 8, 1996.

The Commission released this composite document addressing Sections 251 and 252 of the Telecomm Act, which pertain to both intrastate and interstate aspects of interconnections, resale of services and access to unbundled elements. In discussing these two sections, the Commission concluded that the individual states and the Commission can forge a partnership, through which the Commission can establish uniform national rules for some issues, with additional rules adopted by the states. The states and/or the Commission can administer those rules.

The Commission initiates this new partnership by requiring a duty to negotiate in good faith, without fully defining what the full context of this duty involves, however it is to be determined on a case-by-case basis.

Next, pursuant to Section 251(c)2), requiring incumbent LECs to provide interconnection to any requesting telecommunications carrier at any technically feasible point, the Commission concluded that the term "interconnection" refers only to the physical link of two networks for mutual exchange of traffic. Additionally, the FCC held that there must be a minimum of five "technically feasible" points at which the incumbent LECs must provide interconnections: (1) the line side of a local switch; (2) the trunk side of a local switch; (3) the trunk interconnection points for a tandem switch; (4) central office cross-connect points; and (5) out-of-band signaling facilities.

Regarding unbundled elements, Section 251(c)3) requires incumbent LECs to provide nondiscriminatory access to network elements to requesting carriers on rates, terms, and conditions that are just, reasonable and nondiscriminatory. While states may require additional network elements, the required minimum set of elements is: local loops, local and tandem switches, interoffice transmission facilities, network interface devices, signaling and call-related database facilities, operations support systems functions, and operator and directory assistance facilities. Such non-

discriminatory access was to be accomplished by January 1, 1997.

Regarding the issue of ratemaking, the Commission concluded that state commissions should set arbitrated rates for interconnection and access to unbundled elements pursuant to a forward-looking economic cost pricing methodology. The Commission also addressed: Methods of Obtaining Interconnections and Access to Unbundled Elements; Access Charges for Unbundled Switching; Resale of telecommunication services; Requesting telecom carriers; Commercial Mobile Radio Service; Transport and Termination, Access to Rights of Way; Obligations Imposed on non-incumbent LECs; Exemptions, Suspensions, and Modifications of Section 251 Requirements; and Commission Responsibilities Under Section 252.

CC DOCKET No. 96-128: *In re Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order*, Sept. 20, 1996.

The Commission adopted a series of new rules and policies governing the payphone industry. These new rules and policies: (1) established a plan to ensure fair compensation for each and every completed intrastate and interstate call using a payphone; (2) discontinued intrastate and interstate carrier access charge payphone service elements and payments; (3) presubscribed non-structural safeguards for Bell Operating Company ("BOC") payphones; (4) permitted the BOCs to negotiate with payphone location providers on the interLATA carrier prescribed to their payphones; (5) permitted all payphone service providers to negotiate with location providers on the interLATA carrier presubscribed to their payphones; and (6) adopted guidelines for use by the states in establishing public interest payphones to be located where there would otherwise not be a payphone.

These rules and policies were established to provide a pro-competitive, deregulatory, national framework designed to accelerate rapid private sector deployment of advanced telecommunications, information technologies and services to all Americans by opening all telecommunications markets to competition, by seeking to eliminate those regulatory constraints that inhibit the ability both to enter and exit the payphone marketplace,

and to compete for the right to provide services to customers through payphones.

CC DOCKET No. 96-187: *In re Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996, Notice of Proposed Rule Making*, Sept. 6, 1996.

In response to the Telecomm Act, in its *NPRM*, the Commission proposed measures to implement the specific streamlining requirements of Section 204(a)(3), as well as additional steps for streamlining the tariff process that are designed to advance the broader goals of the Telecomm Act, including, but not limited to, the establishment of a program for electronic filing of tariffs that would permit carriers to file, and the public to gain access to, tariffs by means of an on-line service. The Commission went on to discuss in significant detail the specific, relevant sections, and its proposals for implementation of these sections.

The Commission invited comment on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information must have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information of the respondents, including the use of automated collection techniques of other forms of information technology.

CC DOCKET No. 96-284: *In re Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, Second Report and Order and Third Notice of Proposed Rule Making*, 11 FCC Rcd. 9462, Aug. 15, 1996.

In this *Order*, the FCC continued its examination of issues regarding roaming services by commercial mobile radio service (CMRS) providers. This *Order* was the result of amendments to the Communications Act of 1934 and Congress' recent charge to the Commission to promote competition and reduce regulation in order to achieve higher quality and lower prices for consumers, while at the same time promoting the rapid initiation of newer technology. The Commission then began a series of relatively broad in-

quiries and regulatory actions relating to CMRSs in earlier *NPRMs* and *NOIs*, which lead up to this *Order*.

In a series of decisions, the Commission first concluded that the availability of roaming on broadband wireless networks is important to the development of nationwide, ubiquitous, and competitive wireless voice telecommunications, and that, during the period in which the broadband personal communications services (PCS) systems are being built, market forces alone may not be sufficient to cause roaming to become widely available. Therefore, the Commission expanded the scope of its existing "manual" roaming rule, which requires cellular carriers to serve individual roamers, and to include other CMRS providers that offer comparable competitive mobile telephony services. Furthermore, as a result of this action, cellular, broadband PCS and certain specialized mobile radio carriers must, as a condition of their licenses, provide service to any individual roamer whose handset is technically capable of accessing their network. The Commission concluded by requesting comment on whether it should define cellular, broadband PCS and covered specialized mobile radio providers' obligations to include the provision of "automatic" roaming service to other carriers as well as whether the Commission's manual roaming rule should be subject to a five year "sunset".

FCC DOCKET No. 96-286; CC DOCKET No. 95-116: *In re Telephone Number Portability, First Report and Order and Further Notice of Proposed Rule Making, July 2, 1996.*

Section 251(b)(2) of the Communications Act of 1934, newly added by the Telecomm Act, directs each local exchange carrier (LEC) to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission. The Telecomm Act defines "Number Portability" as the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

The Commission, in this *First Report and Order*, promulgates new rules and regulations implementing number portability. Although the Commission does not choose a particular technology

for providing number portability, it establishes performance criteria that any long-term number portability method selected by a LEC must meet. Specifically, the Commission requires all LEC's to begin to implement a long-term service provider portability solution in the 100 largest Metropolitan Statistical Areas no later than October 1, 1997, and complete deployment by December 31, 1998. In the *Further Notice of Proposed Rule Making*, the Commission seeks comments regarding cost recovery for long-term number portability.

GENERAL COUNSEL

FCC DOCKET No. 96-216, GN DOCKET No. 96-113: *In re Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses, Notice of Inquiry, May 21, 1996.*

On May 21, 1996, the Commission issued a *Notice of Inquiry* seeking comment on market entry barriers for small businesses in the telecommunications field. This *NOI* commences the Commission's implementation of Section 257 of the Telecommunications Act of 1996, which requires the Commission to conduct a proceeding "for the purpose of identifying and eliminating, by regulations pursuant to its authority under this Act . . . market entry barriers for entrepreneurs and other small businesses in the provision of telecommunications services and information services, or in the provision of parts or services to providers of telecommunications services and information services." 47 U.S.C. § 257(b). In addition to promulgation of the Telecomm Act, the *NOI* will further the objectives of Section 309(j) of the Communications Act of 1934, which mandates that the dissemination of licenses for auctionable spectrum-based services include small businesses, rural telephone companies, minorities, and women. 47 U.S.C. § 309(j).

Crafted in four parts, the *NOI* in Part II provides a basis for inquiry recognizing the importance of small businesses in the U.S. economy and the telecommunications industry. The Commission also identifies past small business initiatives created to increase opportunities for entry and expansion pursuant to Section 309(j) and in the public interest. Part III seeks comment on the characteristics of small telecommunications business; how to define a small business in the tele-

communications industry; and whether there are unique entry barriers faced by minorities or women. The Commission identifies the constitutional issues raised by *Adarand Constructors, Inc. v. Peña*, 115 S.Ct. 2097 (1996) for any federal programs based on race and *United States v. Virginia*, 44 F.3d 1229 (4th Cir. 1995), 116 S. Ct. 2264 (1996), for gender-based programs. Part IV seeks comments on whether the Commission can implement unique market entry barrier regulations.

INTERNATIONAL BUREAU

IB DOCKET No. 96-111: *In re* Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, *Notice of Proposed Rule Making*, July 15, 1996.

The Commission released a *NPRM* in response to the explosive growth of the global telecommunications market. The Commission proposed to establish a uniform system and framework for evaluating applications submitted by users in the United States seeking authority to access satellites licensed by foreign countries. Under this "framework," non-U.S.-licensed satellite systems will be permitted to provide satellite service between the U.S. and other countries, and/or within the United States itself, to the extent that these various foreign markets allow for effective competitive opportunities from United States satellite systems to provide similar services. The Commission saw such potential, despite its previously having approved such applications on an *ad hoc* basis, due to the recent satellite use increase, as an effort to encourage greater access to non-U.S. satellites (benefiting U.S. users) and also opening foreign markets, thus enhancing global competition.

In regard to then-existing satellite systems, licensed in other countries, the Commission would not require these systems to obtain redundant licensing in the United States. Termed "Effective Competitive Opportunities for Satellites" (ECO-Sat), the standard would establish authorization of earth stations to use any service that falls within the scope of effective competitive opportunities for U.S. satellites abroad by allowing access to the U.S. market by licensing earth stations to operate with non-U.S. satellite systems as the Commission allowed in the past.

IB DOCKET No. 96-132: *In re* Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the Upper and Lower L-Band, *Notice of Proposed Rule Making*, June 18, 1996.

The Commission proposed licensing policies to govern mobile-satellite service ("MSS") in portions of the L-Band between 1545 - 1559 MHz and 1646.5 - 1660.5 MHz frequency bands of the upper L-band, and the 1525 - 1530 MHz, 1530 - 1544 MHz and 1626.5 - 1645.5 MHz frequency bands of the lower L-band. Specifically, the proposal was to assign all coordinated L-band spectrum, with the first 28 MHz of spectrum internationally coordinated in the L-band allocated to the only U.S. mobile-satellite service authorized to operate in the upper L-band, AMSC. Should the United States be able to coordinate more than 28 MHz of spectrum, the Commission further proposed that it then allow other MSS applicants to apply for those frequencies.

IB DOCKET No. 96-1481: *In re* Freeze of Filing of Applications for New Licenses, Amendments, and Modifications in the 18.8 - 19.3 GHz Frequency Band, *Order*, Aug. 30, 1996.

This *Order* effectively held that no applications or amendments to pending applications, renewals, modifications, or extensions will be accepted for filing for either terrestrial fixed services in the 18.820 - 18.920 and 19.160 - 19.260 bands or Non-Geostationary Fixed Satellite Service (NGSO/FSS) earth stations in the 18 GHz band. Each of these applications presently pending before the Commission were exclusive in nature, and, pending the resolution of these applications, no further applications could be accepted. Note, however, that the Commission will still accept applications for additional nodal sites within an already defined area where those licensees demonstrate that grant of their application is necessary to meet customer demands for their Digital Electronic Message Service (DEMS) services.

MASS MEDIA

FCC DOCKET No. 96-90: *In re* Implementation of 202(a) and 202(b)(1) of the Telecommunications Act of 1996 (Broadcast Radio Ownership), *Order*, Mar. 8, 1996.

In this *Order*, the Commission implemented the provisions of the Telecommunications Act of 1996 that amend the national multiple radio ownership and the local radio ownership rules. 47 C.F.R. § 73.3555. The Telecomm Act eliminates the Commission's restrictions on national ownership that limited an entity to having attributable or other cognizable interests in no more than twenty AM and twenty FM stations. An additional three stations could be owned if these stations were controlled by small businesses or minorities. Section 202(a) of the Telecomm Act directs the Commission to eliminate any restrictions on national ownership.

Pursuant to Section 202(b)(2) of the Telecomm Act, the Commission amends the local radio ownership rules, commonly known as the "radio contour overlap" rules. Section 73.3555(a)(1) of the Commission's rules permitted ownership of up to three commercial stations, with no more than two in the same service (AM or FM), in a radio market with fourteen or fewer stations and with the commonly owned stations representing less than 50% of the stations in the market. Owners of stations in local markets with fifteen or more radio stations were limited to no more than two AM or FM stations, if the combined audience share of commonly owned radio stations in that market did not exceed 25%. The Telecomm Act mandates numerical caps tiered to the number of radio stations in that market. For example, in a market with forty-five or more commercial stations, an entity may own, operate, or control up to eight commercial stations, but not more than five in the same service (AM or FM). Given the Telecomm Act's elimination of audience share as a method to evaluate local multiple radio ownership, the Commission also amended Section 73.3555(a)(3)(iii) to eliminate the definition of "audience share" for measuring ownership in the radio industry.

FCC DOCKET No. 96-91: *In re* Implementation of 202(c)(1) and 202(e) of the Telecommunications Act of 1996 (National Broadcast Television Ownership and Dual Network Operations), *Order*, Mar. 7, 1996.

In this *Order*, the Commission revised its national television station multiple ownership rules, 47 C.F.R. § 73.3555, pursuant to Section 202(c)(1) of the Telecommunications Act of

1996. Section 202(c)(1) requires that the Commission raise the national audience reach to 35 percent and to eliminate the numerical limits on national television ownership. Prior to passage of the Telecomm Act, Sections 73.3555(e)(1)(ii-iii), (2) and (3) of the Commission's Rules prohibited an entity from having an attributable interest or other cognizable interest in more than twelve television stations. The Rule allowed an entity to own up to fourteen stations if these additional stations were minority-controlled. The Rule further prohibited an entity from having attributable or cognizable interests in more than an aggregate total of 25 percent national audience reach.

In this proceeding, the Commission also implemented Section 202(e) of the Telecomm Act which amends the Commission's dual network rule, 47 C.F.R. § 73.658(g). The rule now permits a television broadcast station to affiliate with a person or entity that maintains two or more networks. "Network" is defined in 47 C.F.R. § 73.3613(a)(1).

FCC DOCKET No. 96-169, MM DOCKET No. 96-90: *In re* Implementation of Section 203 of the Telecommunications Act of 1996 (Broadcast License Terms), *Notice of Proposed Rule Making*, Apr. 12, 1996.

A *NPRM* was issued to implement Section 203 in the Telecomm Act, which grants authority to the Commission to extend the license terms of radio and television stations to a term not to exceed eight years. The Commission seeks comment on three issues raised by Section 203: "(1) Given the discretion reserved to the Commission for granting and renewing broadcast licenses for a term not to exceed eight years, should the Commission ordinarily grant such licenses for terms up to the new statutory minimum? (2) Should the Commission exercise its statutory discretion to distinguish the rule among different classes of stations in determining appropriate license terms? (3) How should we incorporate any potential changes in the length of license terms into the framework set forth in our rules regarding license renewal cycles?" *NPRM* at para. 4.

Further, Section 203 explicitly provides the Commission authority to grant a license term for a class of broadcast services that is less than the statutory maximum if the public interest, convenience, and necessity would be served by such ac-

tion. The Commission proposed to adopt the statutory maximum of an eight-year term for full-service stations, FM and TV translator facilities, low power TV stations, and international broadcasting stations.

Since the current license renewal cycle for radio stations began in October 1995, the Commission proposed that those stations renewed prior to a final decision in this proceeding under the current seven-year term, will receive an one-year extension to bring their terms up to the statutory maximum. Therefore, this will preserve the synchronization of future radio renewal cycles. The television license renewal cycle will not commence until October 1996. The Commission expects to complete this proceeding by that time.

FCC DOCKET No. 96-317, MM DOCKET No. 87-268: *In re* Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, *Sixth Further Notice of Proposed Rule Making*, Aug. 14, 1996.

With the release of the *FNPRM*, the Commission commenced the final step in the implementation of the transition from analog to digital television (DTV). This *FNPRM* proposed policies for the development of DTV allotments, procedures for the assignment of DTV frequencies, and plans for the recovery of spectrum after the transition. The Commission's primary allotment objective is to develop an approach that will include all eligible existing broadcasters. Eligible broadcasters have previously been identified as all full-service VHF and UHF licensees and permittees meeting specific authorization requirements. A priority in the proposed allotment plan is to replicate existing service in the new DTV allotments. Replication would preserve a viewer's access to television service by allowing existing stations to provide DTV service to a comparable geographic area to that which they already serve. The Commission also proposes to allow existing stations to expand their DTV service area if such an increase would not create additional interference.

The Commission proposed that all DTV channels be located in a core region of both VHF and UHF broadcast spectrum, i.e., VHF channels 7-13 and UHF 14-51. This allotment plan would permit the eventual recovery of a substantial amount of spectrum in the lower VHF channels 2-6, and upper UHF channels 52-69. The Commission has

not determined if the recovered spectrum will be reallocated or not, nor how it will be assigned, e.g., random selection or competitive bidding. These issues are to be identified in a subsequent proceeding.

The Commission also sought comment on an alternative allotment plan developed by the Association of Maximum Service Television, Inc. (MSTV). The MSTV plan is similar to the Commission's plan in that it will also accommodate all existing eligible broadcasters and provide replication of service. The major difference is that the MSTV plan uses a wider range of spectrum and does not attempt to concentrate all DTV licenses in a core region.

WIRELESS BUREAU

FCC DOCKET No. 96-215; WT DOCKET No. 95-102: *In re* Amendment of Part 95 of the Commission's Rules to Establish a Very Short Distance Two-Way Voice Radio Service, *Report and Order*, May 15, 1996.

This *Report and Order* establishes a very short distance, unlicensed, two-way voice personal radio service titled the Family Radio Service (FRS). The FRS will facilitate an affordable and convenient means of direct, short range two-way voice communications among small groups of persons such as families, friends, and people on group outings. Comments from the *Notice of Proposed Rule Making* agreed that there is a burgeoning need for the FRS and that innovative products can be supplied at low cost.

The FRS will share two small frequency bands with the General Mobile Radio Service, 462.5375-462.7375 MHz and 467.5375-467.7375 MHz. Interconnection with the Public Switched Network is prohibited and operation authority in the FRS will be by rule rather than by individual licenses. Administration of the FRS will be primarily through transmitter technical standards.

FCC DOCKET No. 96-278; WT DOCKET No. 96-59: *In re* Amendment of Parts 20 and 24 of the Commission's Rules — Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, *Report and Order*, June 24, 1996.

The Commission modified its competitive bidding and ownership rules for the Personal Com-

munications Services in the 2 GHz band (broadband PCS), in response to the Supreme Court's decision in *Adarand Constructors, Inc. v. Peña*, which held that any federal program that makes distinctions on the basis of race must satisfy the strict scrutiny standard of judicial review. Additionally, the FCC amended other broadband PCS rules in order to encourage sincere bidding, streamline the auction process, and lessen administrative burdens. Finally, in response to the remand from the Sixth Circuit in *Cincinnati Bell Telephone Co. v. FCC*, the FCC modified the Commission's rules governing cellular licensees' ownership of broadband PCS licenses in all frequency blocks.

FCC DOCKET No. 96-283; WT DOCKET No. 96-6: *In re* Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, *First Report and Order and Further Notice of Proposed Rule Making*, Aug. 1, 1996.

In response to its *Notice of Proposed Rule Making*, WT Docket No. 96-6, released on January 25, 1996, the Commission received strong support for allowing the provision of fixed wireless services by licensees operating in the Commercial Mobile Radio Service bands (CMRS). In this *First Report and Order*, the Commission concludes that public interest would be served by giving licensees maximum flexibility in the uses of CMRS spectrum. The Commission stated that permitting service providers to offer all types of fixed, mobile, and hybrid services will allow CMRS providers to better respond to market demands and increased competition. However, the Commission believes it is premature to make a final determination with respect to the regulatory treatment of licensees providing such services. While proposing to establish a presumption that licensees offering other fixed services over CMRS spectrum should be regulated as CMRS, the Commission seeks further comment on such a presumption and, if adopted, applicable factors to be used to support or rebut this presumption.

FCC DOCKET No. 96-315; WT DOCKET No. 95-56: *In re* Amendment of the Commission's Rules Concerning Low Power Radio and Automated Maritime Telecommunications System

Operations in the 216-217 MHz Band, Report and Order, Aug. 2, 1996.

This *Report and Order* permits the shared use of the 216-217 MHz band, on a secondary, non-interference basis, for Low Power Radio Service (LPRS) to include auditory assistance devices, health care assistance devices and law enforcement tracking systems. Additionally, the use of these low power devices are now authorized by rule, rather than through individual licensing, in order to promote the rapid deployment of these new services to the public. The *R&O* also permits the Automated Maritime Telecommunications System coast stations to share the upper portion of this band on a secondary basis for low power point-to-point network control communications. The Commission asserts that it is unlikely that these new lower power uses will cause harmful interference to the two primary users of the band, television channel 13 and the United States Navy's Space Surveillance System.

FCC DOCKET No. 96-319; GEN DOCKET No. 90-314; WT DOCKET No. 96-162: *In re* Amendment of the Commission's Rules to Establish Competitive Service Safeguards for Local Exchange Carrier Provision of Commercial Mobile Radio Services, *Notice of Proposed Rule Making, Order on Remand, and Waiver Order*, Aug. 13, 1996.

The Commission initiated a comprehensive review of its existing regulatory framework of structural and nonstructural safeguards for LEC provision of CMRS. The Commission's actions are a response to the Sixth Circuit's remand in the *Cincinnati Bell Tel. Co. v. FCC* decision and the Telecommunications Act of 1996 provisions that govern the joint marketing of CMRS and landline services, protections for customer proprietary network information and network information disclosure.

The Commission proposed elimination of its current Part 22 requirement that BOC must provide cellular service through a structurally separate corporation by proffering two options towards this end. One option is to retain streamlined separate affiliates and nondiscrimination requirements of Section 22.903 for BOC provision of cellular service within a BOC's area of operation, but would sunset the restrictions for a

particular BOC upon receiving authorization to provide interLATA service originating in any in-region state. The second option is simply to eliminate Section 22.903 in favor of the uniform safeguards for LEC provision of PCS. The second option differs from the first in that it would eliminate the requirements for independent operation, separate officers and personnel, and an arm's-length transaction between the BOC and its cellular affiliate.

FCC DOCKET No. 96-374: Radiolocation Service License Call Sign WPIZ 271; File No. 365526: *In re* InfoPET Identification Systems, Inc., *Memorandum Opinion and Order*, Sept. 18, 1996.

The Commission denied an Application for Review and Request for Stay by AVID Marketing Inc. (AVID), a supplier of low-power, hand-held animal tag reading devices that scan implanted microchips, surgically placed in animals, for ownership information. To obtain a successful scan, the device must scan within a few inches of the microchip. InfoPET Identification Systems, Inc. (InfoPET)'s competing device is a high-power device that operates at a 40-watt power level. InfoPET's device can scan an animal at a distance of 18 inches, which allows an animal to merely walk or be carried past the scanning device. On July 21, 1995, InfoPET applied to operate 150 Walk-By Reader animal tag reading systems at temporary locations throughout the country under Part 90 of the Commission's Rules for the Radiolocation Service (File No. 365526). On October 17, 1995, AVID filed a Petition to Deny the application.

AVID's Application for Review challenged the decision by the Wireless Telecommunications Bureau's Licensing Division to deny AVID's Petition to Deny the application filed by InfoPET and asserts, in part, that the grant of the license to InfoPET improperly establishes a de facto pet identification radio service within Subpart F of Part 90. The Commission disagreed. The *MO&O* states that the grant of a license to InfoPET for a frequency to be used for a permissible purpose (albeit a new one) does not constitute the formation of a new radio service.

FCC DOCKET No. 96-375; WT DOCKET No. 96-188: *In re* Amendment of the Amateur Service Rules to Authorize Visiting Foreign Amateur Operators to Operate Stations in the United States, *Notice of Proposed Rule Making*, Sept. 20, 1996.

The Commission proposed amendment to the amateur service rules to authorize citizens of certain countries in Europe and the Americas to operate stations while on short visits in the United States. The amendment would facilitate expeditious implementation of two pending international reciprocal operating arrangements. These arrangements are intended to make it easier for U.S. amateur operators to operate stations temporarily in twenty-two European countries, eight South American countries, Mexico, and Honduras. The amendment would also benefit operators in these same countries by allowing them to operate stations in places where the service is regulated by the Commission.

FCC DOCKET No. 96-383; WT DOCKET No. 96-199: *In re* Amendment of Part 90 Concerning the Commission's Finder's Preference Rules, *Notice of Proposed Rule Making*, Sept. 27, 1996.

In connection with the Commission's proposals to implement a new licensing approach for the 220-222 MHz band, FCC sought to eliminate the finder's preference program in the 220-222 MHz band. Previously, applicants for licenses in specified land mobile bands received a dispositive licensing preference for finding unused channels that are ultimately recovered by the Commission. The Commission now seeks comment on its proposal to implement geographic area licensing and use competitive bidding to choose among mutually exclusive initial applications in this band. This *NPRM* also seeks comment on the usefulness and benefits of continuing the finder's preference program for the private land mobile radio services in the 470-512 MHz, 800 MHz, and 900 MHz bands.