
SELECTED FCC DOCKET SUMMARIES*

WIRELESS

In re Extending Wireless Telecommunications Services to Tribal Lands, Report and Order and Further Notice of Proposed Rule Making, CC Dkt. No. 96-45, WT Dkt. No. 99-266, FCC 00-209 (rel. June 8, 2000).

The rate of subscribership to telecommunications services on tribal lands was found to be half the national average. This lack of basic technologies has deprived such tribal communities both socially and economically. To combat such low subscribership, the Federal Communications Commission (the "Commission" or "FCC") significantly lowered the cost of basic local phone service, simplified universal service support for companies looking to enter the market, increased the incentives for wireless carriers to bring service to reservations and initiated a policy respecting tribal sovereignty.

In re The Applications of Intelsat, LLC for Authority to Operate, and to Further Construct, Launch, and Operate C-band and Ku-band Satellites that Form a Global Communications System in Geostationary Orbit, Memorandum Opinion, Order and Authorization, FCC 00-287 (rel. Aug. 8, 2000).

Upon privatization in 2001, INTELSAT will be able to offer satellite services to, from and within the United States. In granting licenses, the Commission expects to increase competition in the global market. Currently, INTELSAT transmits a large portion of the world's commercial and governmental satellite communications.

Because INTELSAT is an intergovernmental organization, it is not subject to a licensing authority. Therefore, INTELSAT created Intelsat, LLC in order to file its application with the FCC. INTELSAT will then transfer its satellites and orbital locations to Intelsat, LLC as authorized by the FCC.

The Commission expects Intelsat to continue to further its satellite policy goals upon privatization by "(1) maintaining global connectivity and coverage; (2) protecting lifeline users and connectivities; and (3) ensuring nondiscriminatory access to the system." These principles are especially important because many countries that rely on INTELSAT are still developing or have few providers.

The Commission decided that because INTELSAT was the first of its kind, predating most of the current rules, and was created with the help of the United States government, that it was reasonable to waive certain requirements with which other satellite providers must comply. The licenses are, however, conditional. Intelsat must construct and launch ten new satellites within deadlines imposed by the FCC. This requirement will ensure prompt use of the orbital locations transferred to Intelsat. If it became necessary for the Commission to revoke Intelsat's license, its orbital registrations will be cancelled so that they might be transferred to other operators. The Commission also noted that if Intelsat chooses to privatize in a foreign jurisdiction, it will review the application pursuant to its DISCO II decision.

In re Implementation of 911 Act—The Use of N11 Codes and Other Abbreviated Dialing Arrangements, Fourth Report and Order and Third Notice of Proposed Rule Making, WT Dkt. No. 00-110, CC Dkt. No. 92-105, FCC 00-327 (rel. Aug. 29, 2000).

The FCC was given authority under the Wireless Communications and Public Safety Act of 1999 (the "911 Act") to implement a nationwide emergency service including wireline and wireless communications. To satisfy the congressional mandate, the Commission decided to designate 911 as the nationwide emergency abbreviation. The FCC also is considering the amount of time appropriate to transition communities to 911 usage and how such systems should be deployed.

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The Commission has tentatively concluded that it will monitor the transition of those regions using other programs to the universal 911 system. Carriers will initially be required to provide basic 911 service connecting users to Public Safety Answering Points ("PSAPs"). Eventually, the Commission expects these providers to supply Enhanced 911 service that aids PSAPs in pinpointing callers.

The Commission is not currently requiring communities to implement 911 as an emergency assistance number where there is no 911 service as the 911 Act does not require the establishment of emergency services. It is, however, seeking comment as to what the obligations of a carrier are in such areas. Further, the FCC is seeking comment on what efforts should be instituted to encourage communities to deploy "comprehensive emergency communications networks based on each State's coordinated plan." The Commission also concluded that it has the power to "adopt guidelines to facilitate the State's efforts."

MASS MEDIA

In re Elimination of Experimental Broadcast Ownership Restrictions, Notice of Proposed Rule Making, MM Dkt. No. 00-105, FCC 00-203 (rel. June 5, 2000).

The Commission seeks to repeal Section 74.134, which limits an entity's ownership of experimental broadcast stations to one. Originally, the rule was intended to prevent companies from amassing commercial stations under the pretext of experimentation. The Commission now contends that because there are other sections that ensure that only truly experimental stations are licensed under Part 74, this rule is unduly burdensome. Furthermore, allowing entities to own multiple experimental broadcast stations furthers the Commission's policy of "encourag[ing] larger and more effective use of radio in the public interest."

In re Creation of Low Power Radio Service, Memorandum Opinion and Order on Reconsideration, MM Dkt. No. 99-25, FCC 00-349 (rel. Sept. 20, 2000).

The Commission affirmed its order creating a new low power FM ("LPFM") radio service. Additionally, the Commission created listener com-

plaint resolution procedures and added protection for current stations providing radio reading services. These new 100-watt and 10-watt classes allow for greater airwave diversity while maintaining the reliability of existing stations. Government public safety and traffic bureaus will be able to apply for LPFM licenses to disseminate information, provided that there are no conflicting applications. Due to the amendment of the single-station ownership rule, government entities and universities already controlling a service also will be able to apply for licenses. The quid pro quo of the university exception is that the LPFM station must be student-run. Indian Tribes also can apply for LPFM licenses for noncommercial, educational stations.

The Commission also created additional protections for stations broadcasting reading services to the blind. Provided that the technology to receive the services is suitable, LPFM stations will be required "to meet third adjacent channel spacing standards with respect to existing full power stations operating radio reading services."

New complaint procedures were implemented to ensure that interference problems would be quickly resolved. The measures will be initiated when 1% of the listening audience of a full power FM station complains of interference from the low power station. Initially, the process would be for the stations to work together to resolve the complaints (FCC agents would be available for assistance). Where resolution is not possible, the Commission will institute an expedited procedure to settle the problem within ninety days.

LPFM stations will not be required to make public file and ownership reports. Because of the noncommercial nature of these stations, the Commission determined that such requirements would be unnecessarily burdensome. Character qualifications will, however, be imposed. Parties acting in contravention of FCC regulations are not eligible for LPFM licenses.

In re Extension of the Filing Requirement for Children's Television Programming Reports (FCC Form 398), Report and Order and Further Notice of Proposed Rule Making, MM Dkt. No. 00-44, FCC 00-343 (rel. Oct. 5, 2000).

The Commission sought to make changes to

the children's educational reporting requirements for commercial broadcast television licensees. The Commission extended indefinitely the requirement that licensees file a Form 398, Children's Television Programming Report, quarterly and stated that broadcasters should electronically file the reports quarterly when they are prepared rather than filing all quarterly reports once a year on a given date. As well, the Commission revised Form 398 to make the information contained in the form clearer and more useful to the public and the FCC. In the *Further Notice of Proposed Rulemaking*, the Commission sought comment on whether broadcasters should be required to provide their completed Form 398 on their own websites.

In Re Amendment of Section 73.648(g) of The Commission's Rules—The Dual Network Rule, Notice of Proposed Rule Making, MM Dkt. No. 00-108, FCC 00-213 (rel. June 20, 2000).

Section 73.648(g), known as the "dual network rule," permits a television broadcast station to affiliate with an entity who maintains two or more broadcast television networks *unless* those two or more networks consist of two or more of the major networks, such as ABC, CBS, NBC or FOX, or one of the major networks and either UPN or the WB television network. The dual network rule for television broadcasters was adopted by the Commission in 1946 because the Commission believed that permitting an entity to operate more than one network might preclude new networks from developing and affiliating with desirable stations. As well, the Commission believed the one entity owning dual networks might give that entity too much power in the market and reduce competition. In the Commission's *Biennial Review Report*, issued May 26, 2000, the Commission stated that the reasons it cited for the adoption of the dual network rule in 1946 no longer warranted the retention of the rule. Therefore the Commission issued this *NPRM* to seek comment from parties on whether amending the rule to eliminate the prohibition on the ownership of either the UPN or WB network by one of the major television networks was in the public interest.

COMMON CARRIER

In re Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. D/B/A Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996, Memorandum Opinion and Order, CC Dkt. No. 00-65, FCC 00-238 (rel. June 30, 2000).

The Commission, Department of Justice and Texas Public Utility Commission for the first time all supported a Section 271 application. The application was made by SBC Communications, Inc. in order to provide long-distance service in Texas. This marks only the second time the Commission has approved a Regional Bell Operating Company ("RBOC") to provide long-distance service in its local area. Customers affected by the approval should look forward to substantial benefits, including new service providers, better customer service, tailored and bundled service packages, and lower prices.

By enacting Section 271 of the Telecommunications Act of 1996, Congress sought to enhance the competitive nature of telecommunications. This is accomplished by requiring a RBOC to relinquish its monopoly before entering the long-distance market. Because SBC has taken the necessary steps towards compliance, its application was approved. In opening Texas' local markets, primary concerns included: "(1) full and open participation by all interested parties; (2) independent third party testing of the operational readiness of SWBT's operation support services; (3) development of clearly defined performance measures and standards; and (4) adoption of performance assurance measures that ensure future compliance with the Section 271 checklist."

Approval does not conclude the Commission's interest in SBC. If SBC does not maintain compliance with the checklist requirements of Section 271, penalties or suspension of the approval may be imposed.

In re Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Dkt. No. 98-147 and Fifth Further Notice of Proposed Rule Making in CC Dkt. No. 96-98, CC Dkt. No. 98-147, CC Dkt. No. 96-98, FCC 00-297 (rel. Aug. 10, 2000).

The Commission took action on issues and sought comment on questions related to collocation. Collocation occurs when a local exchange carrier (“LEC”) leases the use of its premises and equipment to a competitor. The intent of the Commission in favoring collocation is to encourage new technologies, lower prices and provide more options in the marketplace.

To further these goals in its *Order on Reconsideration*, the FCC determined that it is necessary that a LEC permit physical collocation within ninety days of receiving an application unless the parties or the state makes other provisions. If space is not available for physical collocation, an incumbent LEC must allow “a controlled environmental vault or similar structure” to be constructed. The Commission determined that no rules should be adopted to govern the ability to “reserve potential collocation space for future use.”

In its Second and Fifth Further Notices, the Commission sought comment on various issues. These issues include the meaning of “necessary” and “physical collocation,” making collocation space increment requirements smaller than a rack or bay, assisting line sharing and subloop bundling at distant LEC locations, and the adoption of national standards for future use reservations. Further, the Commission inquired as to whether the definition of loop and transport elements should include “access for requesting carriers at the wavelength level,” whether the removal of existing copper plant upon deployment of fiber facilities affects obligations under local competition rules, and whether the “technically feasible points at which competing carriers may access subloops at remote terminal locations” should be changed.

CABLE SERVICES

In re Implementation of Section 304 of the Telecommunications Act of 1996—Commercial Availability of Navigation Devices, Further Notice of Proposed Rule Making and Declaratory Ruling, CS Dkt. No. 97-80, FCC 00-341 (rel. Sept. 18, 2000).

The Commission, in reviewing the effectiveness of its navigation device rules, sought comment as to whether CableLabs provided specifications enabling electronics manufacturers to build feasible alternatives to the equipment that service providers supply; whether the interface standard developed by CableLabs attained the goal with the participation of any outside entities that sought to participate; and whether any more should be done to implement Section 629 and its goal of “commercial availability of navigation devices.” The Commission noted that while cable operators met the creation and availability deadline for separating conditional access or security devices from the other functions of navigation devices, no retailer has yet to order a set-top box to accommodate the digital modules.

The Commission also analyzed its decision to require Multichannel Video Program Distributors (“MVPDs”) to stop providing the integrated equipment after January 1, 2005. It had been determined that such provision would impede commercial availability. Currently, the Commission is looking for comment as to whether it should accelerate the phase-out from 2005 to 2003, or if it should allow MVPDs to continue to supply the integrated equipment as long as consumers have other options for procuring the devices.

Further, a declaratory ruling was made to respond to concerns of cable operators regarding “whether the inclusion of some measure of copy protection within a host device violates the separation requirement of the Commission’s navigation device rules.” In holding that such protections do not violate the separation requirement, the Commission recognized that without protection, digital technology allows unlimited and virtually flawless copies to be made of copyrighted works, and that through copy protection, property owners

will be able to protect their rights. Including copy protection to “bridge a gap where digital data would otherwise be available in the clear and ac-

cessible for digital copying” does not contravene the goals of commercial availability and signal security.

