



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

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The Honorable John Dingell
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington D.C. 20515

Dear Chairman Dingell:

Thank you for your letter concerning our processes at the Federal Communications Commission. I agree that the Commission should conduct its affairs fairly, openly and transparently to serve the public interest. I appreciate the opportunity to provide an initial response to your questions.

Since I became Chairman, my approach has been to try to address concerns raised by my colleagues whenever possible including those raised a day before or even an hour before a scheduled Open Meeting. I recognize that at times this may result in a delay or in a less orderly process, but I believe it significant that over 95% of Commission items have been adopted by a bipartisan majority of Commissioners.

1) Will you commit to publishing the text of proposed rules sufficiently in advance of Commission meetings for both (i) the public to have a meaningful opportunity to comment and (ii) the Commissioners to have a meaningful opportunity to review such comments? If so, how?

The Administrative Procedures Act ("APA"), which is the law that governs the process when the Commission adopts new rules, requires that we describe in a notice to the public "either the terms or substance of the proposed rule or a description of the subjects and issues involved." 5 U.S.C. 553(b)(3). The Commission complies with this requirement by publishing Notices of Proposed Rulemakings ("NPRM") that discuss the specific issues that the Commission intends to resolve and seeks comment on them. In response, members of the public then submit comments and reply comments to the Commission providing their views on the various issues discussed in the NPRMs. Commission staff then reviews this record and uses it to draft a detailed Order that the Commissioners will vote. The Order includes background information, a description of the comments, an explanation of the decisions the Commission is making, and the text of any rules.

The APA does not require that we publish the exact text of a proposed rule, and in

fact, it has not been standard practice to publish separately proposed rules prior to adoption of an Order. Recently, however, because of the unusually controversial nature of the media ownership proceeding, I took the extra step of publishing the actual text of the one rule I thought we should amend in advance of the upcoming Commission meeting on December 18.

2) Will you commit to providing your fellow Commissioners with all of the relevant data and analysis upon which a proposed order or rule is based? If so, how?

Yes, I already provide my fellow Commissioners all of the relevant data and analysis upon which a proposed order or rule is based. Proposed orders that Commissioners receive include background discussion, a detailed review of the record, and the rationale supporting our decisions regarding the implementation of any new rules or changes to existing rules.

The specific issue that may have prompted this question relates to our recent consideration of our annual Video Competition Report. This Report was circulated to my colleagues on October 11, 2007. It was considered for adoption at the November 27, 2007 Commission open meeting, almost 7 weeks later.

In 1998, the Cable industry argued that the Commission should eliminate its own collection of data because the data was already provided by Warren and Nielsen. The industry specifically noted that “Warren’s TV Factbook and online database ... is relied upon by businesses and researchers for system specific information about the cable industry.”¹

In the 2002 Video Competition Report, the Commission specifically noted the differences between data from Warren and Kagan, concluding that “these differences suggest that the Kagan data should be used with a good deal of caution and that they are most reliable as a trend indicator, rather than a precise estimate for only one year.”² Although the Commission continued to cite Kagan data in later years, the Report continued to emphasize the limited nature of its use.³

In 2003, the first year the Commission addressed whether the cable industry had met the “70/70” test, the Commission relied solely on Warren Communications data to determine the test had *not* been met.⁴

In 2004, 2005, and 2006, the Commission’s reports also discussed data from our Price Survey and Form 325 internal data collection. In 2006, several commenters submitted evidence that the 70/70 test had been met; others submitted evidence showing that it had not been met. Warren found that 67.8% households subscribing to cable systems with 36 or more channels. The Commission explicitly recognized then that

¹ NCTA Comments at 7, CS Docket 98-61 (filed June 30, 1998) (“NCTA Comments”).

² 9th Annual Report at para. 18.

³ See 10th Annual Report at para. 21; 11th Annual Report at para. 19; 12th Annual Report at para. 30.

⁴ See 10th Annual Report at para. 22.

“[g]iven the circumstances and the fact that all available data sources are imprecise to some extent, it is possible that the second prong of the 70/70 benchmark has been met.” Thus, last year after outlining all the data, the Commission put the public on notice that the 70/70 test might have already been met. Thus, everyone was on notice about this important issue.

In 2007, the Video Competition Report cited Warren’s data that found that 71.4% of households passed by cable systems with 36 or more channels subscribed to those systems. This Report cites data as of 2006.

In considering our most recent report, I provided the Commissioners with the data I determined was most relevant and most accurate for the purpose of determining how many subscribers there were to cable systems with 36 or more channels. The proposed report relied on data from Warren Communications, the only outside data source that distinguished cable systems with more than 36 channels and the data that relied on the largest survey of existing cable systems. In addition, Warren collects its data directly from cable television operators or individual cable systems to create a large database of cable industry information.⁵ Warren states that it is the only research entity that directly surveys every cable system at least once every year, providing the most complete source of cable data.⁶ In fact, the cable systems represented in Warren’s database serve 96% of all subscribers nationwide.⁷ I therefore believe that Warren is the most accurate and reliable source.

In the draft report that was circulated, I included an explanation as to why the Warren data was more reliable than the Kagan data. Specifically, footnote 94 stated “[w]e note that Kagan, unlike Warren, does not report data for cable systems with 36 or more channels and thus does not provide the precise data we need to perform the calculation specified by the statute. We also note that the Kagan estimate regarding the number of households passed by cable, 113,600,000 is greater than the U.S. Census Bureau estimate of 109,450,000 total households. As a result, we find the Warren data to be more reliable in this regard.”

In addition, as I explained in response to a question from Ranking Member Barton prior to adoption of the Annual Report, (see attached) I did not include the Commission’s Price Survey or Form 325 data in my proposal to the Commissioners because they are not as accurate as Warren. Specifically, these two sources represent smaller samples of the cable industry and therefore do not provide as reliable information regarding the number of subscribers to systems with more than 36 channels or number of homes passed by systems with more than 36 channels. The Commission currently sends questionnaires to only 781 cable systems for its Price Survey (representing only 10.2% of the total 7,634 systems in our database and collects Form 325 data from approximately 1,150 cable

⁵ See Letter from Michael Taliaferro, Managing Editor, Television & Cable Factbook, to Commissioners Tate and McDowell, Nov. 15, 2007.

⁶ *Id.*

⁷ See John Eggerton, McDowell, Tate Question 71.4% Cable Subscribership Figure, *Broadcasting & Cable*, Nov. 14, 2007.

systems (representing only 14.4% of the total 7,634 systems in our database). In contrast, Warren sends questionnaires to 7,090 cable systems, and states that it has data representing more than 96% of all cable subscribers.⁸ Indeed, as the National Cable Television Association argued, “Warren’s TV Factbook and online database, not the Commission’s Form 325 data, is relied upon by businesses and researchers for system specific information about the cable industry.”⁹ Moreover, when one Commissioner asked for the most recent Price Survey data, it was provided to him within hours.

In retrospect, given the controversy, I should have included in the item a more detailed explanation of why I believed Warren data was more reliable than other sources we have cited in the past or that were submitted in the record.

3) Will you commit to giving your fellow Commissioners adequate time to review proposed orders and rules? Is so, how?

Yes. Today, Commission processes and decision-making time frames remain essentially the same as the general decision-making procedures established nearly ten years ago under Chairman William Kennard. These procedures were modeled on procedures outlined from the Commission’s then General Counsel William Kennard during Reed Hundt’s tenure as Chairman. During my tenure, I have endeavored to follow these same general procedures and time frames established by my predecessors in order to give Commissioners adequate time to review proposed orders and rules.

The full Commission considers proposed rules or rule changes through one of two methods. Commissioners either vote for proposed rules or rules changes under items that are “on circulation” or they vote for such items at the Commission’s required monthly Open Meeting.

The vast majority of the FCC’s rules are adopted “on circulation.” Under this process, the Commissioners receive and vote electronically proposed orders which include background discussion, a detailed review of the record, and a thorough explanation of our decisions regarding the implementation of any new rules or changes to existing rules. Items on circulation remain in that status until 3 Commissioners vote electronically to approve proposed orders. If an item has been on circulation for at least 21 days, once a majority of Commissioners have voted to approve a circulate item, the remaining Commissioners have 10 days to register their votes or seek an extension beyond the 10 day voting period.

The other method that the Commission uses to adopt rules is to vote at the Commission’s required monthly Open Meeting. Under the decision-making procedures of the last three Chairman (two Democratic, one Republican), Commissioners’ offices receive items for their review at least three weeks before the open meeting. We have provided to the Commissioners a list of items that we are providing to them that day or that they already have that I would like the Commission to consider at the next open

⁸ *Id.*

⁹ NCTA Comments at 7.

meeting.

Under Commission practice, when an item designated for the meeting has been received by the Commissioners' offices at least three weeks before the meeting, all Commissioners' substantive edits should be provided to the originating Bureau/Office not later than close of business seven days before the meeting. During my tenure, I have not enforced this practice on my fellow Commissioners in order to provide them even more time to consider these items. Unfortunately, many of the delays we have experienced with respect to the starting time of Open meetings have resulted because Commissioners have waited until 24 or 48 hours before the designated start of the Commission meeting to provide input, and have continued to provide edits up to and past the time the meeting was scheduled to begin. While it might be more orderly to enforce the prior, I would be concerned that it would significantly reduce the opportunity to reach a compromise with my colleagues.

As of December 3rd, there were 150 items circulating, waiting for the Commissioners to vote. 136 items were circulating for more than 30 days. Three Commissioners had not yet voted 133 of them. 110 of them had been circulating for more than 90 days. Three Commissioners had yet to vote 107 of them. As of December 9th, there are 154 items circulating, waiting for the Commissioners to vote. 137 items have been circulating for more than 30 days. Three Commissioners have not yet voted 110 of them. 110 of them have been circulating for more than 90 days. Three Commissioners have not yet voted 84 of them. I follow the same practice in place since I was a staffer at the Commission when William Kennard was Chairman of identifying some of these items to be voted at the next meeting. Under the Commission's decision-making procedures, if a circulation item has not been adopted within 30 days, the Chairman may convert it to a meeting item and put it on the Sunshine notice for the next meeting. The practice going back to Chairman Kennard had been to give notice to the other Commissioners at least two weeks before the meeting of an intent to move a circulation item to a meeting. Instead, I have typically provided my colleagues with three weeks notice of my intent to move a circulation item to an Open meeting by including it in the initial list.

Finally, the GAO recently expressed concerns that not all parties are aware of the draft rules and proposals that have been circulated among the Commissioners awaiting a vote. In order to address this concern, last week we posted on our website all of the names of the 154 items that are currently before the Commissioners on circulation and the date the item was originally circulated. This list will be updated on the Commission's website on a weekly basis.

As of December 9th, the oldest item on circulation dates to March 7, 2005.

4) Will you commit to providing your fellow Commissioners and the public with adequate notice of Commission meetings? If so, how?

Yes. I will continue to provide Commissioners with three weeks notice of the upcoming

Open meeting and a list of items that we are providing them or that we have already placed on circulation that I plan to consider at the Open meeting. I would note that, in the past, some Chairmen have only provided Commissioners with 2 weeks notice of items already on circulation that they plan to consider at the open meeting. I have typically provided 3 full weeks and will continue to do so. In addition, as I explained, the Commission will on a weekly basis post to the Internet the names of items that I have put on circulation so that the public has full information regarding what proposals the Commissioners are considering.

5) Please describe the Commission's document retention policies, including policies relating to the retention of internal and external Commission correspondence, including e-mail. If these policies have changed since you became Chairman, please describe those changes, the date the changes were instituted, any staff education and oversight activities related to the changes, and the rationale behind the changes. Please also describe any changes you are contemplating to the Commission's policies regarding document retention.

For more than twenty years, the Commission has had a document retention policy responsive to the requirements established by the National Archives and Records Administration (NARA). This policy is memorialized in a Commission policy statement promulgated by the Commission's Office of Managing Director. I have attached a copy of the policy statement.

The Commission's directive requires all Bureau and Offices to retain, according to specified schedules, official items that describe or document the agency's organization, functions, policies, decisions, procedures or operations. "Official" refers to materials created or received by the agency in the conduct of its business and other materials that show how the agency transacted business.

The Commission updates its directives periodically. In March 2007, the Commission updated its previous document retention directive, but the Commission's 2007 document retention directive is substantially the same as the previous directive.

With respect to staff education and oversight activities, the Commission implemented an agency-wide employee training program on its document retention policies in 2007. As of this date, nearly all of the Commission's employees have successfully completed the training.

Sincerely,



Kevin J. Martin
Chairman

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable Bart Stupak, Chairman
Subcommittee on Oversight and Investigations

The Honorable Ed Whitefield, Ranking Member
Subcommittee on Oversight and Investigations

The Honorable Edward J. Markey, Chairman
Subcommittee on Telecommunications and the Internet

The Honorable Michael J. Copps, Commissioner
Federal Communications Commission

The Honorable Jonathan S. Adelstein, Commissioner
Federal Communications Commission

The Honorable Deborah Taylor Tate, Commissioner
Federal Communications Commission

The Honorable Robert M. McDowell, Commissioner
Federal Communications Commission

Attachment



OFFICE OF
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

The Honorable Joe Barton
Ranking Member
House Energy and Commerce Committee
U.S. House of Representative
2322-A Rayburn House Office Building
Washington, D.C. 20515

Dear Ranking Member Barton:

Thank you for your letter. Attached, please find my answers to your questions.

Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

Kevin J. Martin
Chairman

Attachment

- cc: The Honorable J. Dennis Hastert The Honorable Ralph M. Hall
 The Honorable Cliff Stearns The Honorable Nathan Deal
 The Honorable John Shimkus The Honorable Vito Fossella
 The Honorable Ed Whitfield The Honorable Steve Buyer
 The Honorable Barbara Cubin The Honorable Michael C. Burgess
 The Honorable Lee Terry The Honorable Mary Bono
 The Honorable Mike Rogers The Honorable John Sullivan
 The Honorable Mike Ferguson The Honorable Sue Wilkins Myrick
 The Honorable Joseph R. Pitts The Honorable Marsha Blackburn
 The Honorable John B. Shadegg The Honorable Greg Walden
 The Honorable Tim Murphy The Honorable George Radanovich

1. Please describe all items regarding government-mandated a la carte, multicast must-carry, program carriage, rate regulation of leased access, interactive set-top box obligations, cable ownership, and the 70/70 provision that are currently circulating or planned for an open meeting. For each, please provide the applicable docket numbers.

Government-mandated a la carte:

- None

Multicast Must Carry:

- Second Order on Reconsideration and Second Further Notice of Proposed Rulemaking in *Cable Carriage of Digital Television Broadcast Signals* (CS Docket No. 98-120), circulated 6/13/2006. The Second Order would require the mandatory carriage of multiple streams of broadcasters' digital transmission.
- Notice of Proposed Rule Making in *Promoting Diversification of Ownership in the Broadcasting Services* (Docket number not assigned until adoption), circulated 3/12/2007. The Notice of Proposed Rulemaking seeks comment on several initiatives designed to increase participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses.

Program Carriage:

- Report and Order in *Leased Commercial Access; Development of Competition and Diversity in Video Programming Distribution and Carriage* (MB Docket No. 07-42), circulated 11/6/2007. The Report and Order adopts proposals concerning modifications to the Commission's leased access and program carriage rules.

Rate Regulation of Leased Access:

- Report and Order in *Leased Commercial Access; Development of Competition and Diversity in Video Programming Distribution and Carriage* (MB Docket No. 07-42), circulated 11/7/2007. The Report and Order adopts proposals concerning modifications to the Commission's leased access and program carriage rules.

Interactive Set-top Box Obligations:

- None.

Cable Ownership:

- Fourth Report and Order and Further Notice of Proposed Rule Making in The Commission's *Cable Horizontal and Vertical Ownership Limits* (MM Docket No. 92-264), circulated 3/12/2007. The Fourth Report and Order adopts proposals in

response to the court remand in *Time Warner Entertainment Co. v. FCC* concerning the cable horizontal ownership limit.

70/70 Provision:

- Thirteenth Annual Report in *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming* (MB Docket No. 06-189), circulated 10/12/2007. The Thirteenth Annual Report to Congress examines multiple issues concerning the status of competition in the market for delivery of multichannel video programming to consumers.

In addition to these rulemaking items, the Commission frequently submits reports on a variety of topics relating to media, including both broadcast and cable. The 2006 Report on the status of competition in the market for the delivery of multichannel video programming and the Notice of Inquiry to begin the 2007 report are currently circulating before my colleagues and are scheduled to be considered at tomorrow's open agenda meeting. The Commission has also committed to submit a Report on Localism, which is currently pending before my colleagues. These reports touch on a wide range of topics including almost all of the ones listed above.

2. **Please describe any data the Commission has received suggesting that the 70/70 provision has been met, the source of the data, and whether that data is of the same type and source the Commission usually relies on in its annual video competition reports.**

The Commission has received data from Warren Communications that suggests the 70/70 provision has been met. This data is the same type and from the same source as the data the Commission usually relies on in its annual video competition reports. (See Attachment). Warren is a recognized source of industry data, and the Commission has used Warren's data for its 70/70 calculations since we started reporting on these benchmarks in the Tenth Annual Report. We note that in both the Tenth and the Eleventh Annual Reports, the Commission reported that data from Warren showed that the second prong of the 70/70 test was 68.9 percent; in the Twelfth Annual Report, the Warren data showed that the second prong was 67.8 percent. We rely on Warren data because it provides information on subscribers and homes passed for cable systems with 36 or more channels as specified in the statute. In addition, Warren collects its data directly from cable television operators or individual cable systems to create a large database of cable industry information.¹ Warren states that it is the only research entity that directly surveys every cable system at least once every year, providing the most complete source of cable data.² In fact, the cable systems represented in Warren's database serve 96% of

¹ See Letter from Michael Taliaferro, Managing Editor, Television & Cable Factbook, to Commissioners Tate and McDowell, Nov. 15, 2007.

² *Id.*

all subscribers nationwide.³

Congress required the Commission to monitor cable's penetration into the television market in section 612(g) of the Act. Congress required that: (1) "at such time as cable systems with 36 or more activated channels are available to 70 percent of households within the United States" and (2) "are subscribed to by 70 percent of the households to which such systems are available, the Commission may promulgate any additional rules necessary to provide diversity of information sources."⁴ (70/70 test). As discussed below, several commenters, including CFA, MAP, and AT&T argue the test has been met. Others, primarily members of the cable industry and a cable financial analyst, argue it has not been met. For the first time this year, however, data from one of the sources the industry itself relies on, Warren Communications News (Warren), results in finding that the test has been met. As described below, this data appears to be the most reliable.

There is no disagreement among commenters that the first prong of the 70/70 test has been met. As in the *2005 Report*, commenters agree that cable systems with 36 or more activated channels are available to more than 70 percent of households within the United States.

There has been and continues to be considerable disagreement, however, on the precise level of availability, i.e., the number of homes passed by systems with 36 or more activated channels, and on the exact percent of households that subscribe to such systems.⁵ In the *2005 Report*, we found that alternative estimates yielded different conclusions about whether the 70/70 test had been met. Notably, the Commission explicitly recognized then that "[g]iven the circumstances and the fact that all available data sources are imprecise to some extent, it is possible that the second prong of the 70/70 benchmark has been met."⁶ Accordingly, the *2005 Report* requested further comment on the best methodologies and data for measuring the 70/70 thresholds and what, if any, additional action should be undertaken to achieve the statutory goals, should we find that the thresholds have been met.⁷

In the *2005 Report*, using data from the Census Bureau, we found that there were 107,850,000 households. Using Warren data we found that cable systems with 36 or more channels were available to 93,077,522 households. We therefore determined that 86.3 percent of homes were passed by cable systems with 36 or more channels.⁸ In

³ See John Eggerton, *McDowell, Tate Question 71.4% Cable-Subscribership Figure*, *Broadcasting & Cable*, Nov. 14, 2007.

⁴ 47 U.S.C. § 532(g). This provision was added to the Communications Act by the Cable Communications Policy Act of 1984 ("*1984 Cable Act*"), Pub. L. No. 98-549, 98 Stat. 2779.

⁵ See, e.g., Comments of AT&T, MB Docket No. 05-255 (filed Apr. 3, 2006); Comments of NCTA, MB Docket No. 05-255 (filed Apr. 3, 2006); Reply Comments of NCTA, MB Docket No. 05-255 (filed Apr. 25, 2006).

⁶ *2005 Report* at 2515 ¶ 35.

⁷ *2005 Report* at 2515 ¶ 36.

⁸ *2005 Report* at 2513 ¶ 32.

calculating this figure, the Commission noted that no commenter had provided any conflicting data, and thus concluded that "there appears to be no serious disagreement that this prong of the analysis has been satisfied."

Using these same data sources, current Census Bureau data indicate that there are 109,450,000 households, an increase of almost 2 million homes.⁹ And, according to Warren, 93,373,707 households are passed by cable systems with 36 or more channels, up almost 300,000 subscribers from last year. Thus, based on these data sources, we find that the percentage of availability of cable systems with 36 or more channels has declined slightly to 85.3 percent (93,373,707/109,450,000) of households.

With respect to penetration, the 2005 Report stated that Warren reported that 63,145,124 households subscribed to cable systems with 36 or more channels, resulting in 67.8% (63,145,124 /93,077,522) of households subscribing to cable systems with 36 or more channels.

Again using the same data sources, we find that, according to Warren, as of October 2007 there were 93,373,707 households passed by cable systems with 36 or more channels. Warren reports that there were 66,661,544 subscribers to such systems. Thus, by Warren's measures, 71.4 percent (66,661,544/93,373,707) of households passed by cable systems offering 36 or more channels subscribe to these systems.¹⁰

Commenters disagree about whether the second prong of the 70/70 test has been met. Some commenters urge us to look at other data sources. Of the available sources, Warren appears to be the most reliable data submitted. For the reasons described below, other data sources are not as suitable for this purpose.

Certain commenters urge us to look at Kagan or Nielsen. These companies, unlike Warren, do not report data for cable systems with 36 or more channels. Thus, neither Kagan nor Nielsen provide the precise data we need to perform the calculation specified by the statute. We also note that the Kagan estimate regarding the number of households passed by cable, 113,600,000, is greater than the U.S. Census Bureau estimate of 109,450,000 total households. As a result, while the Commission has cited Kagan data in previous Video Competition reports, it has always been clear that it should be used merely as a trend indicator, rather than as a precise estimate for any particular year.

As described in the 2005 Report, AT&T submits that the second prong of the 70/70 test has been met.¹¹ In doing so, AT&T mixes data from different sources. If possible, the calculation of the second prong, which compares the number of subscribers to the number of households passed, should use the same data source for both the

⁹ U.S. Census Bureau, *Census Bureau Reports on Residential Vacancies and Homeownership* (press release), July 27, 2007, Table 3. See <http://www.census.gov/hhes/www/housing/hvs/qtr207/q207press.pdf> (visited Oct. 10, 2007).

¹⁰ Warren Communications News, *Custom Report: from Television and Cable Factbook Datasets*, Oct. 10, 2007. E-mail from Michael Taliaferro, Assistant Publisher, Directories, WARREN COMMUNICATIONS NEWS to Dana Scherer on Oct. 10, 2007.

¹¹ 2005 Report, 21 FCC Rcd 2514 ¶ 33.

numerator and denominator. In this way, the numerator (number of cable subscribers) is derived from the same households that are used for in the denominator (number of households passed by cable systems), and a valid comparison can be made between the number of subscribers and the household passed. Using Warren data for both the numerator and denominator remedies the deficiency in the estimate submitted by AT&T.

Other commenters concur with AT&T that the second prong of the 70/70 test has been met. For example, CU uses various public sources to conclude that there are 63 million cable subscribers served by cable systems offering 36 or more channels and 88 million households passed by cable systems offering 36 or more channels. CU then relies on its own assumptions to arrive at its estimate of 71.6 percent (63 million/88 million = 71.6%) for the second prong of the 70/70 test.

MAP submits a report by Dr. Gregory Rose. Dr. Rose used data from ABI Research which reports 133.71 million households passed by cable systems and 99.61 million cable subscribers for North America (U.S., Canada, and Mexico). Estimates for the U.S. were derived by subtracting from the ABI data estimates for Canada and Mexico based on data from Paul Budde Communications. Dr. Rose calculates a total of 110.91 million households passed by cable systems and 85.99 million cable subscribers in the U.S. Thus, Dr. Rose estimates 77.53 percent (85.99 million / 110.91 million = 77.53%) for the second prong of the 70/70 test. However, the estimate is for all cable systems, not those that offer 36 or more channels. We note that the Communications Works of America agrees with MAP's conclusions.¹²

Alternatively Bernstein and NCTA argue that the second prong of the 70/70 test has not been met. Sanford C. Bernstein and Company believes that Warren undercounts the number of households passed by cable systems with 36 or more channels. However, Bernstein does not break out data for cable systems with 36 or more channels, as the statute requires. It derives an estimate of total households passed by cable, 106 million, based on SEC filings for companies that are publicly traded and those that issue public debt. In addition, it estimated subscriber counties for non-publicly traded companies based on data from SEC filings for companies that are publicly traded, filings for companies that issue public debt, MDC Corporation, and NCTA. It estimates that the total number of U.S. cable subscribers is 63,512,700 million households. We are not able to confirm the reliability of these estimates.

MAP and the Consumer's Union argue that publicly available documents undercount subscribers because they do not distinguish multiple dwelling units. Since 30 percent of Americans live in MDUs, the actual number of cable subscribers who subscribe to cable systems with 36 or more channels could be significantly higher. A higher number of subscribers results in a higher percentage of households who subscribe to cable systems with 36 or more channels.

In addition, NCTA submitted analysis of the Warren data by Michael G. Baumann. Dr. Baumann reviewed the on-line version of the Warren data and found 909 cable systems report subscribers but not homes passed and 401 systems report homes passed but not subscribers. Dr. Baumann estimates 66.1 percent for the second prong of

¹² See CWA letter dated Nov. 20, 2007.

the 70/70 test using only Warren data for cable systems that reported both homes passed and subscribers. We cannot verify that after NCTA has subtracted over 1300 systems, the remaining cable systems.

In the past, the Commission has referenced data from its price survey data or Form 325. This year, using data from the Price Survey would lead to a figure of 56.3 percent of households passed by cable systems offering 36 or more channels subscribe to these systems. Based on the data from the Form 325, the same figure would be 54 percent. These two sources represent extremely small samples and therefore cannot be relied upon for this purpose. The Commission currently sends questionnaires to only 781 cable systems for its Price Survey (representing only 10.2% of the total 7,634 systems in our database and collects Form 325 data from approximately 1,100 cable systems (representing only 14.4% of the total 7,634 systems in our database). In contrast, Warren sends questionnaires to all 7,090 cable systems, and states that it has data representing more than 96% of all cable subscribers.¹³ Indeed, as NCTA has argued, "Warren's TV Factbook and online database, not the Commission's Form 325 data, is relied upon by businesses and researchers for system-specific information about the cable industry."¹⁴

In addition, commenters, such as AT&T, the Association of Independent and Video Filmmakers et al., and CBA, argue that competitors to incumbent cable systems (e.g., overbuilders, DBS operators, and Internet providers) should be included in the calculation of the 70/70 test.¹⁵ DBS operators and Internet providers do not meet the statutory definition of a cable system and, therefore, should not be included in the 70/70 calculations. An overbuilder, however, meets the statutory definition of a cable system and, therefore, should be included in the 70/70 calculations. Warren includes most overbuilders in its estimates of cable subscribers, but does not include subscribers to one notable cable provider, Verizon.¹⁶ Doing so would increase the total number of cable subscribers to systems with 36 or more channels by 717,000, thereby increasing the percentage of households subscribing to systems with 36 or more channels to 72.1%.¹⁷

¹³ John Eggerton, "McDowell, Tate Question 71.4% Cable-Subscribership Figure," *Broadcasting & Cable*, 11/14/2007.

¹⁴ See NCTA Comments at 7, CS Docket 98-61 (filed June 30, 1998).

¹⁵ See AT&T Comments at 4, AIVF Comments at 5, and CBA Reply at 3-4 filed in response to request for additional information in the 2005 Report, 21 FCC Rcd 2515 ¶ 36.

¹⁶ See 2007 edition of Warren Television and Cable Factbook at D-7. Warren uses the Commission's definition of a cable system in Sec. 76.5 of our rules, including overbuilders. Moreover, this approach is consistent with our construction of the term in other cable related settings. In the "effective competition" test relevant to cable rate regulation under Section 623 of the Act, the Commission has distinguished between vacant and occupied housing units, declining to include vacant housing units within the term "households" as used in that analysis. Therefore, we conclude here that the calculation of the second prong should include only occupied housing units in the denominator and only subscribers from such units in the numerator.

¹⁷ Verizon 9-30-07, SEC Form 10-Q. Adding Verizon's subscribers does not increase the denominator because doing so would double count homes already passed by cable.

ATTACHMENT

WARREN NUMBERS PUBLISHED PREVIOUSLY IN 70/70 SECTIONS OF VIDEO COMPETITION REPORT

10th Annual Report (as of December 1, 2003):

- o 82,506,311 households passed by cable systems with 36 or more channels.
- o 56,859,607 households subscribe to cable systems to these systems
- o Prong II = 68.9% (56,859,607/82,506,311)

11th Annual Report (as of Oct. 19, 2004):

- o 84,415,707 households passed by cable systems with 36 or more channels
- o 58,177,885 households subscribe to these systems
- o Prong II = 68.9 % (58,177,885/84,415,707)

12th Annual Report (as of Sept. 21, 2005):

- o 93,077,522 households passed by cable systems with 36 or more channels
- o 63,145,124 of those households subscribe to these systems
- o Prong II = 67.8% (63,145,124/93,077,522)

DRAFT 13th Annual Report (as of Oct. 10, 2007)

- o 93,373,707 households passed by cable systems with 36 or more channels
- o 66,661,544 of those households subscribe to these systems
- o Prong II = 71.4% (66,661,544/93,373,707)

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FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554 FCC DIRECTIVE	FCC DIRECTIVE	
	FCC INST 1110.1	
	Effective Date: March 2007	Expiration Date: March 2012

TO: All Commission Employees

SUBJECT: Records Management Program

1. **Purpose.** To set forth the authorities, objectives, responsibilities, and procedures to implement the Records Management Program within the Federal Communications Commission (FCC). To reissue the attached directive on records management.
2. **Cancellation.** This directive supersedes FCCINST 1110.1 dated October 24, 2001.
3. **Background.** The objective in developing the FCC's Records Management Program is to provide employees with a single publication containing basic information about the Commission policies, procedures, and information requirements. The directive combines five Chapters on: "Records Management Program," "Disposition of Documents by Departing Employees," "FCC Records Retention and Disposition Program," "Micrographics Management Program," and "Electronic Recordkeeping."

Anthony J. Dale
Managing Director

Stocked: Performance Evaluation & Records Management

DISTRIBUTION: All Employees	ORIGINATOR: Performance Evaluation & Records Management Office of Managing Director
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RECORDS MANGEMENT PROGRAM – FCCINST 1110.1

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RECORDS MANAGEMENT PROGRAM

- 1-1. **Purpose.** This directive sets forth the authorities, objectives, responsibilities, and procedures to implement the Records Management Program within the FCC.
- 1-2. **Background.** A Records Management Program is a planned, coordinated set of policies, procedures, and activities needed to manage an agency's recorded information. It encompasses the creation, maintenance and use, and disposition of records, regardless of type of media.
- 1-3. **Authorities.**
 - a. Title 44 U.S.C. Section 3101 *et seq.* requires the head of each Federal agency to establish and maintain an active, continuing program for the economical and efficient management of all records of the agency.
 - b. The National Archives and Records Administration (NARA) has an extensive set of regulations, policies and guidance statements which support the implementation of the statutory mandate that every Federal agency must:
 - (1) Make and preserve records that contain adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities (44 U.S.C. § 3101).
 - (2) Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency (44 U.S.C. § 3102).
 - (3) Establish safeguards against the removal or loss of records and making requirements and penalties known to agency officials and employees (44 U.S.C. § 3105).
 - (4) Notify the Archivist of any actual, impending, or threatened unlawful destruction of records and assisting in their recovery (44 U.S.C. § 3106).
- 1-4. **Objectives.** The objectives of the FCC Records Management Program are to implement:

- a. accurate and complete documentation of the policies and transactions of the Commission;
- b. control of the quantity and quality of records produced by the Commission;
- c. establishment and maintenance of mechanisms of control with respect to records and to the effective and economical operations of the Commission;
- d. simplification of the activities, systems, and processes of records creation and of records maintenance and use; and
- e. judicious preservation and disposal of records.

1-5. Responsibilities.

- a. The Chairman of the FCC delegates to the Managing Director the responsibility to establish and maintain an active, continuing Records Management Program for all Commission records.
- b. The Managing Director delegates to the Performance Evaluation and Records Management staff the responsibility for the Commission's Records Management Program. This includes responsibility for the preservation of records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Commission and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the Commission's activities. Specific responsibilities include:
 - (1) establishing a records management program for the Commission that ensures compliance with statute and regulations so that essential records which adequately and properly document organization, policies, functions, decisions, and essential transactions are created, maintained, and disposed of properly. This includes:
 - (a) developing procedures and processes to assure complete documentation and to facilitate retrieval, selection, and retention of records of continuing value, and disposition of noncurrent records;
 - (b) establishing and implementing standards and procedures for the initiation, preparation, review, approval, production, and distribution of proposed agency directives;

- c) assisting bureaus and offices in the scheduling of all records to facilitate prompt and systematic disposal of noncurrent records and to insure retention of records of value;
 - (d) transferring records to other agencies, the National Archives, and Federal and private records centers.
- (2) developing and coordinating training to familiarize FCC personnel with Records Management Program elements;
 - (3) representing the FCC in records management negotiations and liaisons with NARA, General Services Administration (GSA), Office of Management and Budget, Government Accounting Office (GAO), and other agencies, as well as the private sector, as appropriate;
 - (4) providing technical opinions, advice, and recommendations regarding electronic and microform applications of Commission records;
 - (5) conducting reviews and evaluations of the Commission's Records Management Program by making: (1) on-site inspections; (2) annual reviews of all Bureau/Office (B/O) records control schedules; and (3) reviews of B/O submissions of record holdings.
- c. Bureau/Office (B/O) Chiefs are responsible for:
- (1) maintaining the integrity of records in the custody of their respective B/Os, whether physically located in Commission headquarters or field office installations;
 - (2) executing the elements of the Records Management Program by establishing internal procedures for administering the system and by assuring staff observance of established guidelines; and
 - (3) appointing, in writing, an individual from each B/O to act in liaison with the Performance Evaluation & Records Management (PERM).

DISPOSITION OF DOCUMENTS BY DEPARTING EMPLOYEES

- 2-1. **Purpose.** To prescribe the responsibilities and procedures for the disposition of documents by employees departing the FCC.

- 2-2. **Authorities.**
 - a. Federal law 44 U.S.C. § 3105 requires heads of Federal agencies to establish safeguards against the removal or loss of Federal records. Agencies are required to notify employees that: (1) the removal and destruction of records in agency custody is governed by specific provisions of 44 U.S.C. Chapter 33; and (2) criminal penalties are provided for the unlawful removal or destruction of Federal records, 18 U.S.C. § 2071 and for unlawful disclosure of certain information pertaining to national security, 18 U.S.C. §§ 793, 794, and 798.

 - b. Federal law 44 U.S.C. § 3106 and 36 C.F.R. Chapter XII, § 1228.104 require heads of Federal agencies to notify the National Archives of any actual or threatened unlawful removal or destruction of records in their custody. The Archivist of the United States will assist agency heads in initiating action through the Attorney General for the recovery of records unlawfully removed.

 - c. NARA Bulletin 2005-03 sets forth the policy regarding removal of extra copies of records or other work-related, nonrecord materials when an employee leaves an agency. This bulletin also describes what constitutes personal papers.

- 2-3. **Responsibilities.**
 - a. The Managing Director is responsible for:
 - (1) the FCC Records Management Program and ensuring its overall implementation; and
 - (2) exercising final approval authority on document removal requests.

 - b. The General Counsel is responsible for:
 - (1) providing legal interpretations and consultation to the Office of Managing Director regarding document removal; and

- (2) providing informal consultation to Commissioners and B/Os, when requested.

c. Each Commissioner and B/O Chief is responsible for:

- (1) maintaining the integrity of records in the custody of their respective B/Os, whether physically located in Commission headquarters or field installations; and
- (2) assuring staff observance of these guidelines.

2-4. Policy and Standards for Removing Documents.

a. General. All record and nonrecord materials (see Definitions beginning on page 25) created or received by employees in the conduct of official business belong to the Government. When employees leave the FCC, they CANNOT take the official file copy of a record with them. Nor can they request, nor can any official authorize the removal of any records material that:

- (1) is classified, or given confidential or protected status by Federal law or regulation (such as national security law, Executive Orders, or the Privacy Act);
- (2) relates to a pending or ongoing legal or administrative proceeding or rulemaking where release could prejudice the outcome or decision;
- (3) is exempted from mandatory release by the Freedom of Information Act (FOIA). (This means that their authorized removal could be considered a waiver by the Commission of the FOIA exemption. See Section 0.457 of FCC Rules incorporating the FOIA exemptions);
- (4) if removed, would cause an appearance of impropriety; or
- (5) if removed, would exceed normal administrative economies.

b. Through the approval process noted in Paragraph 2-5, employees may request permission to take EXTRA copies of records (see definition) when they depart the Commission, except those noted above in Paragraph 2-4 (a)(1)-(5). This request must follow the process identified in Paragraph 2-5 below.

- c. Nonrecord materials may be removed with prior approval of the employee's immediate supervisor (Branch Chief or higher) if it is determined that:
 - (1) the information is not needed for office operations;
 - (2) removal of documents purchased from the Superintendent of Documents or commercially would not exceed normal administrative economies; and
 - (3) the material in question does not fall under any of the restrictions listed in Paragraph 2-4 (a)(1)-(5).
- d. Personal papers, which are ONLY records that pertain to one individual's personal affairs -- such as pay receipts, insurance forms, and copies of appraisals and personnel actions -- may be removed without express approval. Any material that is about the Commission's, not an individual's, activities -- even nonrecord materials such as a flyer about the Combined Federal Campaign -- is not a personal paper, remains the property of the Government, and CANNOT be removed without permission.

2-5. Procedures for All Employees Related to Removing Extra Copies of Records and Nonrecord Materials. (Additional guidance for departing Chairmen, Commissioners, and their staffs is provided in Paragraph 2-6.)

- a. Upon departure from the Commission, all employees must sign the Form A-448, "Confidential Agreement" (Attachment 1). If employees are not taking any extra copies of record or nonrecord materials with them or did not receive permission to remove such materials, they must sign Part A of Form A-448. Those employees who have been granted permission to remove such materials must sign Part B of Form A-448.
- b. An employee must obtain approval for removing extra copies of record or nonrecord materials by:
 - (1) at least two weeks prior to departure, preparing a request addressed to his/her immediate supervisor (Branch Chief or higher, as appropriate) which will include the reasons for removing the materials and an index of the materials to be removed (see Attachment 2);
 - (2) delivering the request to the General Counsel after obtaining concurrence from his/her immediate supervisor;

- (3) having the General Counsel review the request and, based upon the policy and standards for removing nonrecord materials transmit a recommendation to the Managing Director;
 - (4) having the Managing Director take appropriate action and forward the request to the Associate Managing Director for Human Resources Management (AMD-HRM);
 - (5) having the AMD-HRM notify the employee of the results of the request and obtain the employee's signature on the Confidentiality Agreement;
- c. If the request is denied in full or in part, the employee may appeal the decision to the General Counsel.
 - d. The AMD-HRM will transmit all "Confidentiality Agreement" forms and "Requests for Removal of FCC Extra Copies of Record and Nonrecord Materials," if appropriate, to the General Counsel for retention and disposition within 30 days after the employee's departure from the Commission.

2-6. Guidance for Departing Chairmen, Commissioners, and their Staffs.

- a. Copies of record materials pertaining to pending docket cases and agenda items can be retained in the office for the incoming Chairman or Commissioner.
- b. Official Records. All materials meeting the definition of "record" shall be separated into the following categories and handled as stated below:
 - (1) Administrative files: These are routine internal "housekeeping" files. The disposition for these records is governed by the mandatory General Records Schedules issued by the NARA.

Disposition: Prepare an inventory of the files by title/subject, box them, and send to the PERM, Office of Managing Director. PERM will retain them in the FCC records staging area for final disposition.
 - (2) Program/Subject files: These are records that may contain material related to a specific action, case, docket, or to varied subjects concerning a general area, and are filed by name or number, or according to their general information content. They consist mainly of correspondence, but may include forms, reports, etc. These would be official records of the office unit if they are not duplicated elsewhere in the Commission.

Disposition: Prepare an inventory of the files, box them, and send to PERM.

Records of the Chairman and Commissioner(s) will be submitted to NARA by PERM for appraisal as permanent retention. If NARA does not accept the records for permanent retention, the files may be retired to a Federal Records Center for temporary storage, or disposed of in a manner specifically approved of by NARA.

Records of staff members are not normally permanent records and will be retired to a Federal Records Center or disposed of in accordance with the appropriate General Records Schedule or records control schedules.

- (3) **Office of Record:** If the Chairman or Commissioner's office is holding records for which they are not the office of record, the records should be transferred to the appropriate B/O for inclusion in their official files.

c. **Extra Copies of Record and Nonrecord Materials.**

- (1) The departing Chairman, Commissioner, or Chairman's/ Commissioner's employee must obtain approval to remove extra copies of record and nonrecord materials by:
- (a) preparing a memorandum to the Managing Director (or to the Chairman in the case of staff members) which requests permission for removal; the request must include the reasons for removing them, a list of each document requested and provide for concurrence of the General Counsel (and the Chairman in the case of staff members) and approval of the Managing Director; this should follow the format of Attachment 2;
 - (b) submitting the request with each document requested; and
 - (c) having the Managing Director approve or disapprove the request, notifying the Chairman of the action taken and forward the results to AMD-HRM).
- (2) An employee transferring from the Chairman's or a Commissioner's office to another FCC office may take extra copies of record and nonrecord materials to the new office if the Chairman or a Commissioner gives permission.

- (a) The departing Chairman, Commissioners, and their staff members will be requested to sign the "Confidentiality Agreement," Attachment I, either Part A or B, as appropriate.
- (b) Personal papers may be removed without express approval.

FCC RECORDS RETENTION AND DISPOSITION PROGRAM

- 3-1. Purpose. To establish and assign responsibility for the effective management of a records retention and disposition program in the FCC.

- 3-2. Authority.
 - a. Records Disposal Act of 1943.
 - b. Federal Records Act of 1950, as amended.
 - c. Paperwork Reduction Act of 1995, as amended.
 - d. FIRM Regulation (Subpart 201-22 and Subpart 201-45.1).
 - e. Title 36 of the C.F.R., Chapter XII, Part 1220.
 - f. All related rules and regulations.

- 3-3. Objectives. The objectives of the records retention and disposition program are:
 - a. retention of permanent records having sufficient historical and archival values to warrant immediate or later transfer to the National Archives for permanent preservation; and
 - b. timely and systematic disposal of records deemed temporary by the creating office, the Commission, and the Government for later destruction by the Commission or a records depository.

- 3-4. Responsibilities.
 - a. The Chairman is required to establish and maintain a records disposition program to ensure efficient, prompt, and orderly reduction in the quantity of records and to provide for the proper maintenance of records designated as permanent by NARA.
 - b. The B/O Chiefs are responsible for:
 - (1) maintaining the integrity of records in the custody of their respective B/O;
 - (2) executing the elements of this program by establishing internal procedures for administering the system;

- (3) assuring staff observances of established guidelines; and
 - (4) assuring staff cooperation and coordination with OMD-PERM in creating/updating records control schedules.
- c. The Managing Director is responsible for the overall Records Management Program.
- d. OMD-PERM, under authority delegated by the Managing Director, herein, is responsible for:
- (1) ensuring the timely removal of noncurrent records from office space and equipment;
 - (2) encouraging the use of Federal and private records centers as storage facilities for records with reduced reference activity (one reference per file drawer or shelf per month);
 - (3) with the cooperation of the Archivist, ensuring that records of archival value are identified properly for eventual transfer to NARA;
 - (4) securing necessary approvals for the destruction of records;
 - (5) acting as liaison with NARA for program direction;
 - (6) providing assistance and advice on records disposition matters to officials throughout the Commission;
 - (7) conducting training on records management requirements; and
 - (8) evaluating the program periodically to ensure its operation at peak efficiency.

3-5. Creating a Records Control Schedule. A records scheduling program is essential to promote a prompt and orderly reduction in the quantity of records in each Federal agency in accordance with 44 U.S.C. §§ 2904, 3102, and 3301. To implement this program, a records control schedule must be created to specify each type of records produced by the agency and state the retention and disposition periods. The disposition authority granted by a schedule provides continual removal of unneeded records from offices, even as new ones are being created. The PERM staff in conjunction with B/Os will create and keep current a schedule for each B/O by:

- a. conducting an inventory of each type of file material, which provides information on the volume and location of records and certain nonrecords and the character and use of the records at all organization levels;
- b. analyzing the values in each type of record and identifying permanent versus temporary records;
- c. appraising machine-readable records (microfilm, sound recordings, magnetic tape, etc.); and
- d. applying restrictions on access and use; the series description will note any restrictions on access to and use of the particular series; these restrictions may be placed by Executive Order, by statute, or by internal policy or directive; restrictions normally arise from the security classification of the series, they are:
 - (1) Personally Identifiable Information. These records are not restricted because they contain data important to the national security but because they contain information about individuals whose privacy would be violated if the data were made known to others.
 - (2) National Security. These records bear such marking as "confidential," "secret," or "top secret" because their release or the exposure of data in them to unauthorized persons might harm national security.
 - (3) Non-Public or Sensitive But Unclassified Information. These records are not restricted due to national security or privacy concerns but because they fall within the definitions of organizational sensitivity identified in FCC INST 1139, Management of Non-Public Information.
- e. obtaining appropriate division-level approvals and subsequent bureau-level approval;
- f. preparing a cover sheet (SF-115, "Request for Records Disposition Authority", see Attachment 3) for the schedule and forwarding it to:
 - (1) the GAO for approval, if certain records in the schedule request shorter retention periods than specified in the GSA general records schedules. These records include: payroll and pay administration; procurement, and apportionment; accountable officers accounts; expenditure accounting; stores, plant, and cost accounting/travel and transportation; and motor vehicle maintenance and operation; and/or;

- (2) to NARA for appraisal and then to the Archivist of the United States for signature.
 - g. returning the schedule to the Commission and issuing it to at least the following:
 - (1) the B/O, Division, Branch and Section Chiefs;
 - (2) PERM; and
 - (3) the Office of Federal Records Centers at NARA.
- 3-6. Updating a Records Control Schedule. The B/O Chiefs will notify the PERM staff of the need to review existing schedules. At that time, all deletions, changes, and/or additions requested by the B/O chief will be analyzed by PERM for appropriate appraisal and subsequently incorporated into the current schedule.
- 3-7. Applying the Records Control Schedule. Temporary records eligible for destruction must be disposed of in accordance with the applicable records control schedule. These records may only be disposed of as authorized by the records control schedule. Temporary records containing sensitive information must be placed in the proper bin for destruction of sensitive materials. Contact the Administrative Services Center (ASC) for assistance with the disposal of temporary records. Noncurrent, inactive temporary records and permanent records should be sent to the Federal Records Center (FRC) for storage in accordance with the procedures below.
- 3-8. Preparing Records for Transfer the FRC. As records series become eligible for storage at the FRC, they shall be readied in the following manner.
 - a. The transfer of records to the Records Centers can only be accomplished by using boxes designated solely for this purpose. These boxes are stocked in the Commission's Supply Section and can be obtained by completing form A-125, "Request for Supplies/Blank Forms," and identified by Federal Stock Nos. 8115-00-117-8249 (tuck bottom).
 - b. Attachment 4 illustrates the proper assembling of "tuck-bottom" boxes.
 - c. Without disturbing the existing filing arrangement, pack the records firmly in the box, but allow some room to ensure easy retrieval of folder. Do not place file folders on top of folders within the box. Place the folders in an upright position, with letter-size folders across the short end of the box, captions facing the front of the container or with legal size folders across the long end of the box, captions facing the left side of the container (see Attachment 5).

- d. To number cartons, use only bold black felt markers to mark boxes with the accession number in the upper left hand corner of the front of the box and the office's own consecutive box number marked on the upper right corner of the front of the box. See Attachment 6. Numbers should be written large enough for easy retrieval of boxes by Federal Records Center personnel.
- e. Some important packing reminders include:
 - (1) do not intermix record groups; a series of records is always limited to files from one record group;
 - (2) records in the same series but spanning a number of years may have different disposal dates. If so, make separate series of the records according to disposal dates, and separate accessions numbers must be assigned to each;
 - (3) when packing records, begin each series in a separate box;
 - (4) in no circumstance should permanent records and temporary records be placed in the same box.; and
 - (5) once records are boxed and preparation of the SF-135, "Records Transmittal and Receipt" (see Attachment 7) has begun, access to the boxed records should be strictly limited until the records are transferred to the Federal Records Center, to ensure the integrity of the information entered onto the SF-135.
- f. To close the top of the cartons, simply tuck the flaps alternately over and under each other. **DO NOT** tape the top of the box.
- g. The office transferring the records must call or submit a Form A-492, "Service Request Form," to the Administrative Services Center to schedule the transfer of boxes to PERM.

3-9. Preparing the SF-135, Records Transmittal and Receipt, to Transfer Records to the FRC.

- a. The B/O shall prepare the original SF-135 and send to PERM, see Attachment 7. These forms are stocked in PERM and shall be completed as follows:
 - (1) item #1 should contain the address, Washington National Records Center, 4205 Suitland Road, Washington, D.C. 20409;

- (2) item #2 should contain the title, Records Officer, PERM;
 - (3) item #3 should contain the title, Records Liaison, PERM;
 - (4) item #5 should contain, Federal Communications Commission, PERM, Room 1-A836, 445 12th Street, S.W., Washington, D.C. 20554;
 - (5) item #6(a), (b), (c), accession number, may be obtained by calling PERM; a separate accession number is required for each series of records; each record series needs to be described only once; if a series fills several cartons, breakdown of the chronological, numerical, or alphabetic coverage of each carton must be give to facilitate future reference service on the records;
 - (6) item #6(d) should contain the total number of cubic feet being transferred under an accession number. NOTE: the record transfer boxes each equal one cubic foot;
 - (7) item #6(f) should contain the organizational title, a detailed description of the records and their inclusive dates; the detailed description is required to allow the records center to check for proper application of the disposal schedule;
 - (8) item #6(g) should include for each series a code letter to show a restriction on the use of the records; the codes and restrictions are included on the reverse side of the SF-135, see Attachment 8;
 - (9) item #6(h) should identify the Archives Job Number (found in the Records Control Schedule created for the office), date of the schedule, and the specific item number authorizing disposal for each series of records; and
 - (10) item #6(i), applying the disposal authority cited in column (h), enter the month and year in which the records may be destroyed.
- b. Forward the original copy of the SF-135 to PERM, Room 1-A836. Upon review and approval, PERM will forward the original and one copy to the appropriate FRC.
 - c. After the Analyst at the FRC reviews and approves the SF-135 he/she will return one (1) copy of the SF-135 indicating that the records may be transferred. When the boxes have been received by the FRC, the Receiving Clerk will annotate item 6(j) with the shelf location where each series will be stored. A location number will be provided for the first carton in each series listed on the SF-135. The clerk then returns one (1)

copy of the SF-135 indicating the records have been stored in the space assigned.

- 3-10. Commission Staging Area. PERM has a very limited staging area for temporary storage of records. The B/Os may transfer records to the staging area, after they have been notified by PERM staff that the records have been approved for shipment to the Federal Records Center.
- 3-10. Obtaining Reference Service. To obtain records transferred to the Federal Records Center, the following procedures shall prevail:
 - a. complete Part A of Form A-113, "Request for Recall of Records," (see Attachment 9) the information can be obtained from the SF-135 or the Reference Information Center;
 - b. hand-carry the Form A-113 to PERM, Room 1-A836, if immediate access is required (e.g., FOIA requests or personal viewing); PERM will immediately approve and notify the FRC. Note: FOIA requests must be annotated on the A-113, for additional guidance see FCCINST 1179.1, "Freedom of Information Act;" for personal viewing at the FRC 48 hours as needed;
 - c. retrievals from the FRC normally arrive within 8-10 working days; notification of any delays in obtaining records from the FRC will be made to the requestor by the PERM; and
 - d. retrievals must be returned to PERM within 5 days after receipt; PERM will notify the requestor when the 5 day limit has expired and a written reply regarding the status will be required; if the requestor determines the records cannot be returned within the 5 day limit, the status should indicate an approximate return date.

MICROGRAPHICS MANAGEMENT PROGRAM

- 4-1. Purpose. To provide for continuation of the effective management of a micrographics program in the FCC.
- 4-2. Background. The micrographics program has been developed and implemented to provide a viable alternative to the printed page. The program has been stimulated by increased costs of paper, postage, and printing; the continued proliferation of paperwork; and the emergence of micrographics as an active information retrieval medium. The use of computer-output-microfiche (COM) for computer reports and listings instead of expensive paper printouts are excellent examples of Commission savings being realized through micrographics.
- 4-3. Authority. Title 36 of the Code of Federal Regulations, Chapter XII, NARA Regulations, Part 1230, provides standards for creation, maintenance, use and disposition of microform records.
- 4-4. Objectives. The objectives of the FCC Micrographics Management program are to:
 - a. provide for the effective use of micrographics equipment and services wherever practical and economical as part of the Commission's printing, documentation and information systems; and
 - b. assure that all micrographics applications are reviewed and approved within the requirements of FIRM 201-45.109 and 36 C.F.R. 1230.
- 4-5. Responsibilities.
 - a. The Managing Director is responsible for:
 - (1) approving or disapproving all B/Os feasibility studies for new or revised micrographic systems and applications; and
 - (2) approving or disapproving all B/Os requests for micrographics equipment and/or procurable services.

- b. The Information Technology Center is responsible for rendering recommendations to the Managing Director on B/O requests for micrographic systems and equipment.
- c. Under authority delegated by the Managing Director, PERM is responsible for:
 - (1) issuing and maintaining Commission standards and procedures for micrographics systems management;
 - (2) reviewing all B/O's feasibility studies for new micrographic systems and applications;
 - (3) authorizing the disposal of converted paper records;
 - (4) reviewing all B/O's request for micrographics equipment and/or procurable services;
 - (5) providing assistance in designing and implementing approved systems; and
 - (6) reviewing ongoing micrographics systems periodically for conformance to established policies, procedures and standards.
- d. The B/Os are responsible for:
 - (1) establishing and maintaining accurate administrative procedures for the micrographics systems within their jurisdictions;
 - (2) conducting a feasibility study in accordance with FIRM 201-45.109 for new or revised micrographic systems;
 - (3) requesting authority from PERM for planned microform systems that call for disposal of records after conversion; this authorization must be obtained prior to disposal of paper records and microfilming; and
 - (4) submitting all feasibility studies and requests for micrographic equipment and/or procurable services to PERM for review and comments prior to submission for final approval.

ELECTRONIC RECORDKEEPING

- 5-1. Purpose. This directive provides guidelines for management of records created, stored, or transmitted using personal computers or other electronic office equipment including file servers.
- 5-2. Authorities. The creation, maintenance, and disposition of all official records regardless of physical form is controlled by the provisions of 41 C.F.R. Ch. 201 and 36 C.F.R. Ch. XII. NARA Bulletins 2006-04, 03, 02 and 2005-04 as well as the extensive NARA materials available as part of the NARA Electronic Records Management Guidance (<http://www.archives.gov/records-mgmt/initiatives/erm-guidance.html>) also control agency electronic recordkeeping practices.
- 5-3. Responsibilities.
- a. External Agency: NARA will advise agencies concerning the adequacy and disposition of electronic records.
 - b. Managing Director. The Managing Director is responsible for the approval and implementation of an adequate electronic recordkeeping program, including guidelines and standards, within the Commission for:
 - (1) appropriate identification of electronic records to ensure that their contents are readily retrievable;
 - (2) ensuring the security of electronic records;
 - (3) ensuring against the unauthorized destruction of electronic records;
 - (4) approving access to FCC records stored on FCC created and maintained databases; and
 - (5) approving submission of official filing to the FCC by electronic means.
 - c. Program Evaluation and Records Management (PERM), under delegated authority, is responsible for:

- (1) development of policy guidelines and standards for the creation, maintenance and transmission of electronic records;
 - (2) providing training to the B/Os, as appropriate, to ensure compliance with electronic record guidelines and standards.
- d. The Information Technology Center, under delegated authority, is responsible for:
- (1) implementing and disseminating policy guidelines and standards for the creation, maintenance, and transmission of electronic records;
 - (2) provide a level of access controls and authentication, appropriate to the sensitivity or confidentiality of the electronic records being accessed, that preserves the integrity of data within the records;
 - (3) as much as possible, ensure consistency of indexing agency-wide so that records will migrate easily from legacy systems and so information can be more easily accessed and shared; and
- e. The B/Os. Each B/O is responsible for management of electronic records created, maintained, or transmitted using personal computers or other office automation equipment, including word processors and image processors within their control.
- (1) All B/O guidelines and standards will conform to the guidelines and standards established by ITC and approved by the Managing Director.
 - (2) Any B/O which intends to adopt procedures allowing submission of record material by the public via electronic media must insure that standards are followed which ensure retrieval of data, protect security of all electronic records, and prevent unauthorized destruction or compromise of existing records.

(3) Each B/O shall include in their records control schedule all electronically maintained records to ensure the preservation of material possessing archival or historical value.

f. **System Users.** System users who use a personal computer to create, modify or maintain electronic records on their assigned personal computer or on designated file servers are responsible for the creation, maintenance, and preservation of electronic records resulting from their use. Each individual user shall adhere to and comply with the policies and standards promulgated by ITC.

5-4. Objectives.

- a. To establish guidance and procedures for creating, maintaining, using, and disposing of electronic records.
- b. To ensure that the disposition of the records is formulated during the early development of electronic records systems.
- c. To describe special requirements for electronic records authorized for permanent retention.
- d. To establish minimum labeling and filing requirements to ensure retrieval of electronic records.
- e. To provide an environmental storage facility for inactive electronic records and backup tapes.

5-5. Creation of Electronic Records.

FCC staff who create electronic information must determine whether the information is official record material that must be disposed of only under an approved records disposition schedule, or non-record material that can be disposed of after it has served its purpose, and manage the information accordingly. Electronic records can be categorized as either record or nonrecord, see definitions of each on page 26 and 28. The record status of electronic data is determined by the same criteria used for records generated in paper format. Equipment used to generate or store these records can be personal computers, word processors, computers used as file servers, or computers that host databases or information accessible through the World Wide Web.

5-6. Labeling and Indexing.

When an electronic record is created, the indexing and filing of that record must be in a format accessible to other users. Labeling of electronic media used for

backup purposes must include sufficient information to ensure the records can be retrieved by persons other than the creator.

a. Labeling.

Labels for backup media must include the originating organization, file names and/or codes, appropriate dates, recording density, type of internal labels, software/hardware dependency, total size of files stored, and disposition instructions.

b. Indexing.

Electronic records must be indexed in the same manner as paper records to ensure that records can be easily retrieved by authorized Commission employees and, where appropriate, by those outside of the Commission. The same subject/numeric system used for textual records should be applied to electronic records. Storage media should have subdirectories to file electronic documents in the same manner as a file cabinet would be structured to file textual records.

5-7. Maintenance of Electronic Records.

a. All backups of electronic records will be safeguarded from inadvertent overwrite, destruction or misuse by unauthorized persons.

b. All backup media will be incorporated into the Commission's Electronic Media Backup scheme, as follows:

(1) routine backup of electronic records will be made daily, to include all modifications made since the last backup;

(2) backups of electronic records, regardless of the medium used for the backup process, will be stored in a secure area on-site and will be cycled to the Commission's off-site media storage provider on a weekly basis;

(3) backup media will be cycled through this process for the required cycle. Media recovered from the off-site storage facility may be "scratched," or erased and reused for future backups; and

(4) backup media will be tested periodically to ensure that records stored are in an "as expected" condition for reuse.

5-8. **Migration of Electronic Records**

As information technology changes and advances, it may be necessary to migrate electronic records during the retention period.

- a. If required, copy and reformat electronic records at the time they are moved from one information system or one hardware or software system environment to another.
- b. Reformat electronic records, as required, when new storage devices or media are utilized.
- c. Preserve the content, structure, context and accuracy of electronic records during transfer or reformat migrations.

5-9. **Disposition of Electronic Records.**

- a. Electronic records can only be destroyed under approved records disposition schedules.
- b. The disposition of the information must be determined before the records are created to ensure that appropriate identifiers for storage and retrieval are used and to ensure their appropriate preservation and ultimate disposition.
- c. Electronic records scheduled for retention must be transferred to a permanent archival storage medium approved by ITC.
- d. Non-record material can be destroyed without reference to the disposition schedules approved by the Archivist of the U.S.

5-10. **Electronic Mail (E-Mail).**

- a. E-mail messages and attachments carry record status if the recorded data meets the following criteria for a Federal record:

The recorded data is made or received by an agency of the U.S. Government under Federal law or in connection with the transaction of agency business; and the recorded data is preserved or appropriate for preservation as evidence of the agency's organization and activities or because of the value of the information they contain.

- b. E-mail messages and attachments should be generated and filed with the appropriate record collection when the information it contains is considered record material and adds significantly to the meaning. Examples of records that should be preserved are:

- (1) records that document that formulation and execution of basic policies and decisions and the taking of necessary actions;
- (2) records that document important meetings;
- (3) records that facilitate action by agency officials and their successors in office;
- (4) records that make possible a proper scrutiny by the Congress or other duly authorized agencies of the Government; and
- (5) records that protect the financial, legal, and other rights of the Government and of persons directly affected by the Government's actions.

c. E-mail messages and attachments that are comprised of record materials can be destroyed after a hard copy is produced for record keeping purposes. For messages and attachments that meet the statutory definition of records, it is essential to ensure that the record documentation includes the transmission data, which is available in the e-mail header (i.e., who sent the message, the addressees and any other recipients, and when it was sent). In addition, information about the receipt of messages should be retained if users consider it necessary for adequately documenting Commission activities.

Until technology allowing archival capabilities for long-term electronic storage and retrieval of E-mail messages is available and installed, those messages warranting preservation as records (for period longer than current E-mail systems routinely maintain them) must be printed out and filed with related records or should be manually archived to the user's archive mail box for future use.

d. E-mail messages and attachments generally consisting of miscellaneous informal messages from one individual to another are usually considered non-record.

e. E-mail messages and attachments that are non-record material can be destroyed when they are no longer needed by the user. Messages and attachments that do not meet the definition of records are:

- (1) extra copies of documents kept only for convenience or reference;
- (2) miscellaneous informal messages from an individual to other individuals in the agency that do not contain information on or result in agency policy;

- (3) **announcements of employees' farewell parties, blood drives, CFC, etc.; and**
- (4) **working papers and personal notes that have no record value because they are meaningless to persons other than the author; provide rationale, sense of direction, or guidance above and beyond that documented in official files; and are generally used only by the author to facilitate the development and completion of papers of approval by appropriate officials.**

DEFINITIONS

Accessions. (1) The availability of, or the permission to consult, records. (2) The ability or opportunity to obtain security, classified, or administratively controlled information or records.

Appraisal. The process of determining the value and thus the disposition of records based upon their administrative and other uses, their evidential and informational or research value, their arrangement, and their relationship to other records.

Archival Value. The determination by appraisal that records are worthy of permanent preservation by an archival agency.

Archives. (1) noncurrent records of an organization or institution preserved because of their permanent value; (2) the agency responsible for selecting, preserving, and making available archival materials; (3) the building or a part of a building where such materials are located; and (4) custodian of records (having physical possession and legal title).

Classified Information. Information under Government control that is determined and designated to require protection against unauthorized disclosure pursuant to Executive Order 12356 or prior orders, also referred to as National Security Information. Employees must not remove materials identified by the classifications TOP SECRET, SECRET, or CONFIDENTIAL.

Current Records. Records that are necessary for conducting the current business of an office and that must be maintained, in office space and equipment.

Custody. The guardianship of records, archives, and manuscripts that, in a strict sense, includes both physical possession (protective responsibility) and legal title (legal responsibility).

Disposal. Physical destruction of records.

Disposition. The action taken following the appraisal of record value. These actions include: transfer to a records center; transfer to an archival agency; donation to an eligible repository; or destruction.

Electronic Mail (E-Mail). The process or result of sending and receiving messages in electronic form via remote computer terminals.

Electronic Records. Records stored in a form that only a computer can process.

Extra Copies of Records. Extra copies of records kept solely for convenience of reference, library or museum materials, and stocks of publications and processed documents are excluded from the definition of "record" (44 U.S.C. Chapter 33). These

work-related materials, though excluded from the definition of "record," nevertheless belong to and are controlled by the Government (36 C.F.R. 1222.34(f)) and must not be removed unless approved as noted in Paragraph 2.5.

File Break. Termination of a file at regular periodical intervals to facilitate continuous disposal or transfer of the file series.

File Service. A collection of documents which together form a single type of file separable from all others because it relates to a particular subject or because it results from the same activity or is in a particular form.

General Records Schedule (GRS). A schedule, issued by the National Archives and Records Administration, governing the disposition of specific recurring series of records common to several or all agencies.

GSA. General Services Administration is responsible for promoting economic and efficient records management in such areas as forms and reports, correspondence, micrographics, duplication, and office automation.

Historical Value. The usefulness of records for historical research concerning the agency of origin of information about persons, places, events, or things.

Micrographics. Technology which reduces any form of information to microform for later use.

Microform. A general term for microimages recorded on film that includes microfiche, aperture cards, microfilm, and computer-output-microfiche (COM).

Micrographics System. A configuration of equipment and procedures that utilizes microforms for the production, reproduction, viewing, or retrieval of required documentation.

NARA. The National Archives and Records Administration is responsible for assisting and evaluating agency records management programs to ensure both proper records disposition and the creation and maintenance of adequate and proper documentation of the policies and transactions of the Federal government.

Noncurrent Records. Records that are no longer required in the conduct of current business and therefore can be sent to an archival repository or destroyed.

Nonrecord. Documents have no administrative, fiscal, legal, or historical value are considered nonrecord material, such as: unofficial copies of documents that are kept only for convenience or reference; stocks of publications and processed comments; and library or museum material intended solely for reference or exhibition. The designation "nonrecord" includes:

- (1) reading file copies of correspondence;
- (2) materials documenting fringe activities such as fund drives;
- (3) routing slips and transmittal sheets;
- (4) stocks of blank forms, publications and processed documents;
- (5) surplus copies of printed or duplicated circulates, memoranda, or forms;
- (6) shorthand and other notes, tapes and dictation records that have been transcribed;
- (7) routine requests for publications and acknowledgements;
- (8) catalogs and trade journals;
- (9) working papers;¹
- (10) drafts of reports and correspondence;
- (11) reference publications such as FCC Report, FCC Record, and C.F.R.; and
- (12) closed docket cases and agenda items that have been acted upon and which are not the record copy.

Permanent Records. Records appraised by the National Archives as having sufficient historical or other value to warrant continued preservation by the Federal Government beyond the time they are needed for administrative, legal, or fiscal purposes.

Personal Papers. Papers of a private character which pertain only to an individual's personal affairs. These papers must be designated as personal and will be filed separately from Commission records. Examples are:

- (1) pay receipts;
- (2) insurance forms and brochures;
- (3) personal copy of appraisals and personnel actions;
- (4) invitations to speak; and
- (5) public documents which were available to the public free of charge, etc.

¹ Exception: drafts and working papers should be filed and maintained as part of the agency's records if they explain how the agency formulated and executed significant programs, policies, decisions, actions, or responsibilities or contain unique information such as annotations or comments.

In cases where matters requiring the transaction of official business are received in private personal correspondence, the portion pertaining to official business will be extracted and made part of the official files. Any correspondence designated "personal," "confidential," or "private," etc., but relevant to the conduct of official business, is nonetheless a Commission record, and subject to maintenance and disposal in accordance with Federal law. Commission records belong to the office rather than the employee.

Protected Information. Records marked "for official use only," "limited distribution" or similarly restricted to prevent unauthorized disclosure because of statutory, proprietary, intra-agency or privacy considerations. For example, employees may not remove agenda material, investigative reports, intra-agency correspondence, or materials furnished by other Government agencies that contain these markings.

Public Reference Room. A room or designated space in an office where official documents are routinely made available for public inspection.

Records. As defined in the Records Disposal Act of 1943, as amended, now 44 U.S.C. 3301)-"...books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them..." extra copies of records kept solely for convenience of reference, library or museum materials, and stocks of publications and processed documents are excluded from the definition of "record" (44 U.S.C. Chapter 33). These work-related materials, though excluded from the definition of "record," nevertheless belong to and are controlled by the Government (36 C.F.R. 1222.34(f)) and must not be removed unless approved as cited in Paragraph 2.5.

Records Centers. A facility used for the low cost and efficient storage and furnishing of reference service on semicurrent records pending their ultimate disposition; the custodian regarding physical possession which legal title remains with the agency.

Records Creation. The first stage of the records life cycle in which records are made (or received) by an office.

Records Control Schedules. A document governing, on a continuing basis, the mandatory disposition of recurring record series of an organization or agency. Also known as a records schedule, records retention schedules, disposition schedules, or retention schedule.

Records Disposition. Any activity with respect to: (1) disposal by destruction or donation of temporary records no longer necessary for the conduct of business; (2) transfer of records to Federal agency storage facilities or records center; (3) transfer to the National Archives of the United States of records determined to have sufficient

historical or other value to warrant continued preservation; or (4) transfer of records from one Federal agency to any other Federal agency.

Records Maintenance and Use. Any activity involving: (1) location of records of a Federal agency; (2) storage, retrieval and handling of records kept at office file locations by or for a Federal agency; and (3) selection and utilization of equipment and supplies associated with records and copying.

Records Management. The planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition.

Research Value. The usefulness of records for research by the Government, business and other private organization, and by scholars in the humanities, social and physical sciences, administration, and other disciplines.

Retention Period. The length of time, based on an event or chronological period, occurring when a series is retained before its authorized disposal. Files not authorized for destruction have a retention period of "permanent."

Temporary Records. The designation applied to records that are disposable after a fixed period of time or after an event. The time may range from a few days or a month or twenty (20) years. About 95 percent of all Federal records are temporary.

Transfer. The movement of records out of office space and equipment to a depository.

**ATTACHMENT 1
Federal Communications Commission
Confidentiality Agreement**

Part A.		
<p>To be completed by all departing employees except those who have been granted permission to remove copies of documents from the FCC.</p>		
<p>As a departing employee of the Federal Communications Commission, I hereby acknowledge that I may have had access to non-public or privileged information. I agree that if asked or subpoenaed to testify about the Commission or any issue that was the subject of Commission attention during my employment or to produce any documents I may have from the Commission, I will contact the General Counsel's Office as soon as possible, and in all cases before responding to the request or subpoena.</p>		
Printed name	Signature	Date

Part B.		
<p>To be completed <i>ONLY</i> by departing employees who have been granted permission to remove extra copies of record or nonrecord materials from the FCC.</p>		
<p>As a departing employee of the Federal Communications Commission, I hereby acknowledge that I have been given permission consistent with applicable law to remove extra copies of record or nonrecord materials. These documents are listed on the attached memorandum granting approval for their removal from the FCC. I hereby agree not to disclose, directly or indirectly, any of these documents or portions thereof or any of the information or contents therein, unless I have been given express permission by the Office of General Counsel or have been ordered by a court to do so.</p>		
<p>I further agree that if asked or subpoenaed to testify about the Commission or any issue that was the subject of Commission attention during my employment or to produce any documents I have from the Commission, I will notify the General Counsel's Office as soon as possible, and in all cases before responding to the request or subpoena.</p>		
Printed name	Signature	Date

Form A-448
February 2007

DATE:

REPLY TO

ATTN OF: (Employee's Name, Bureau)

SUBJECT: Request for Removal of Extra Copies of Record or
Nonrecord Materials

TO: (Employee's Immediate Supervisor--Branch Chief or higher,
as appropriate)

I request permission to remove the following document because . . .
. . .

Index

1. Memorandum dated, Subject:
2. Draft Position Paper dated, Subject:
- 3.
- 4.
- 5.

Attachments-Subject Documents

Concur: _____
 (Immediate Supervisor's Name) (Date)
 (Immediate Supervisor's Title)

Concur: _____
 (Name of General Counsel) (Date)
 General Counsel

Approved: _____
 _____ (Name of Managing Director) (Date)
 Managing Director

11.6

SAMPLE

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR(41 CFR) 101-
50100114

Attachment 3

REQUEST FOR RECORDS DISPOSITION AUTHORITY		LEAVE BLANK (NARA use only)	
To: NATIONAL ARCHIVES & RECORDS ADMINISTRATION		JOB NUMBER	
1. FROM (Agency or establishment)		Date Received	
2. MAJOR SUB DIVISION		NOTIFICATION TO AGENCY	
3. MINOR SUB DIVISION		In accordance with the provisions of 44 U.S.C 3303a, the disposition request, including amendments is approved	
4. NAME OF PERSON WITH WHOM TO CONFER		except for items that may be marked "disposition not approved" or "withdrawn" in column 10.	
5. TELEPHONE	DATE	ARCHIVIST OF THE UNITED STATES	
6. AGENCY CERTIFICATION I hereby certify that I am authorized to act for this agency in matters pertaining to the disposition of its records and that the records proposed for Disposal on the attached _____ page(s) are not needed now for the business of this agency or will not be needed after the retention periods specified; and that written concurrence from the General Accounting Office, under the provisions of Title 8 of the GAO Manual for Guidance of Federal Agencies, <input type="checkbox"/> is not required <input type="checkbox"/> is attached; or <input type="checkbox"/> has been requested.			
DATE	SIGNATURE OF AGENCY REPRESENTATIVE		TITLE
7. ITEM NO.	8. DESCRIPTION OF ITEM AND PROPOSED DISPOSITION	9. GRS OR SUPERSEDED JOB CITATION	10. ACTION TAKEN (NARA USE ONLY)

Attachment 4

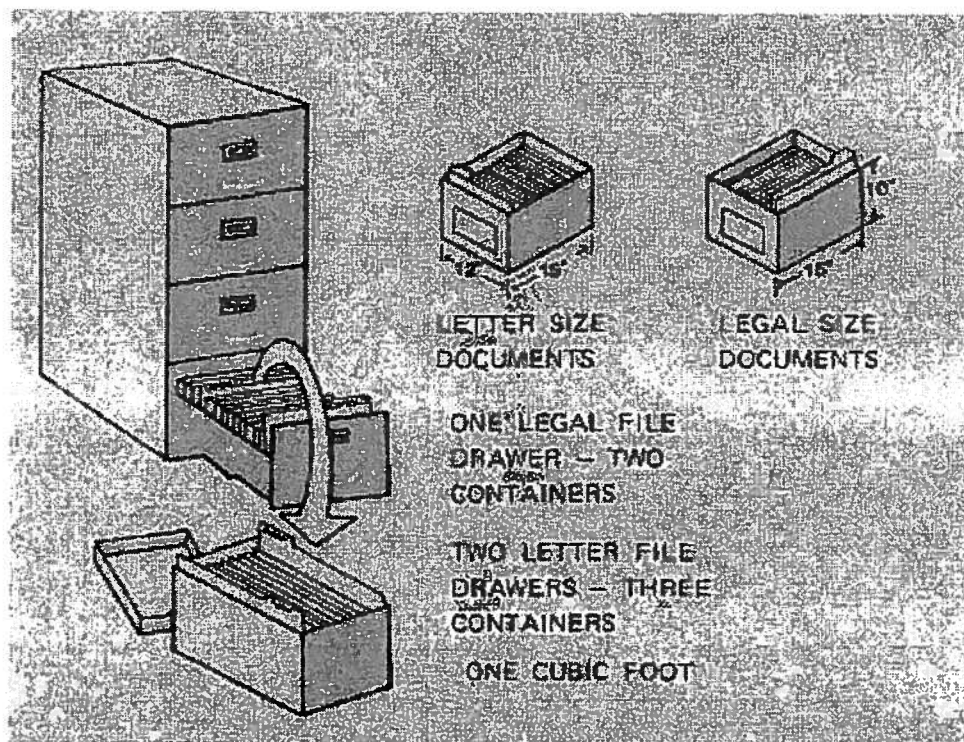
Box Assembly Instructions Diagram

To view the Diagram click on the hyperlink above or copy the following URL into your web browser address bar and press "Enter":

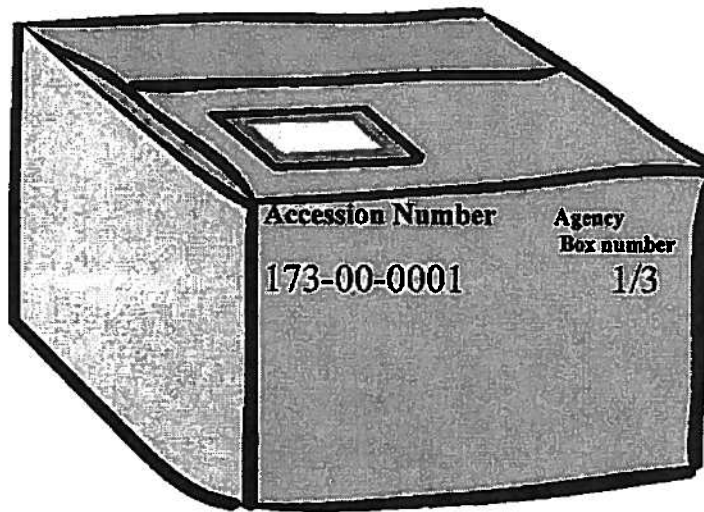
http://www.archives.gov/records_center_program/box_assembly_instructions.pdf

Attachment 5

PACKING RECORDS



Attachment 6



THE BOXES MUST BE FULL; LEAVE ONLY ½ INCH SPACE IN EACH BOX.

Write the accession number and box numbers on the front of the box (es) as shown.

The back of the box has large staples down the back edge.

DO NOT WRITE ON THE BACK OF THE BOX.

The bottom of the box has writing on the flaps.

Attachment 7

Records Transmittal and Receipt (SF-135)

To view the Records Transmittal and Receipt click on the hyperlink above or copy the following URL into your web browser address bar and press "Enter":

http://www.archives.gov/records_center_program/forms/sf_135_in_word.doc

Attachment 8

General Instructions for completing Records Transmittal and Receipt (SF-135)

To view the General Instructions click on the hyperlink above or copy the following URL into your web browser address bar and press "Enter":

http://www.archives.gov/records_center_program/forms/sf_135_general_instructions.html

Attachment 9

FEDERAL COMMUNICATIONS COMMISSION
REQUEST FOR RECALL OF RECORDS

Initial Submission

Resubmission

Review files at FCC, Washington, DC

Review files at FRC, Suitland MD

INSTRUCTIONS: Complete Part A and submit original to the Records Management Branch.

PART A -- To be completed by B/O Representatives				
Accession No.	Agency Box No.		Date of Request	
Description of File				
Reason for Request				
Requested By (B/O Representative)		Telephone Number	Building/Room Number	
Requester Name	Company Name		Telephone Number	
PART B -- To be completed by Records Management Branch				
Date Ordered	Date Received	Date Issued	B/O Representatives Initials	Date Returned to FRC
COMMENTS				

WHITE - RECORDS MANAGEMENT BRANCH, OMD-PERM
YELLOW - B/O REPRESENTATIVE
PINK - REQUESTER

FORM A-113