

Advocacy Urges FCC to Analyze Impact Before Altering of Designated Entity Rules

On September 20, 2006, the Office of Advocacy (Advocacy) filed a comment with the Federal Communications Commission (FCC) in response to a proposal addressing the eligibility of spectrum auction applicants for “designated entity” benefits. Advocacy supported the FCC’s effort to promote small business participation in spectrum auctions and urged the FCC to analyze the impact on small businesses and explore regulatory alternatives. A complete copy of Advocacy’s letter may be accessed at <http://www.sba.gov/advo/laws/comments/>.

- Designated entities are small businesses, businesses owned by minorities and/or women, and rural telephone companies. The FCC is seeking to balance two goals given to it by Congress: (1) provide designated entities with reasonable flexibility to obtain financing from investors, and (2) prevent ineligible entities from getting designated entity benefits by circumventing the intent of the rules by obtaining those benefits indirectly.
- Advocacy spoke with representatives of small business from a variety of different industries to determine the impact of the proposed rule. Small businesses believe that the FCC does not provide evidence of systematic abuse of the designated entity program and that additional regulations are unnecessary to prevent unjust enrichment.
- The measures discussed by the FCC will have a significant impact on small businesses, as they will add reporting requirements, impose regulatory mandates, or place restrictions on a designated entities’ ability to negotiate and contract with third parties. Advocacy recommended that the FCC publish an analysis of these burdens in a supplemental initial regulatory flexibility analysis to provide small businesses an opportunity to comment on the impact and alternatives.
- The Regulatory Flexibility Act and Executive Order 13272 require Federal government agencies to analyze the impact of proposed and final rules on small entities and consider less burdensome alternatives. The initial analysis should be done at the same time as the proposed rule and should be issued concurrently with the proposal.

For more information, visit Advocacy’s website at <http://www.sba.gov/advo/> or contact Eric Menge at (202) 205-6533.