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December 9, 2004

The Honorable John McCain  
Chairman  
The Honorable Ernest F. Hollings  
Ranking Minority Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Joe Barton  
Chairman  
The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Federal Communications Commission: Broadcast Services; Television Stations*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC), entitled "Broadcast Services; Television Stations" (FCC 04-220, MB Docket No. 03-185). We received the rule on October 8, 2004. It was published in the Federal Register as a final rule on November 29, 2004. 69 Fed. Reg. 69325.

The final rule adopts rules for digital low-power television and television translator stations and resolves issues related to digital television booster stations. This rule marks the beginning of the digital television conversion for these services.

Enclosed is our assessment of the FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that FCC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Michael Gryszkowiec,

Managing Director, Physical Infrastructure. Mr. Gryzkowiec can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

cc: Thomas Horan  
Legal Advisor, Media Bureau  
Federal Communications Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
FEDERAL COMMUNICATIONS COMMISSION  
ENTITLED  
"BROADCAST SERVICES; TELEVISION STATIONS"  
(FCC 04-220, MB DOCKET NO. 03-185)

(i) Cost-benefit analysis

The FCC is not required to prepare and did not prepare a cost-benefit analysis for the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The FCC prepared an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed and final rules, respectively. The analyses comply with the requirements of the Act, including a description of the small entities affected and their size and the steps taken to reduce the burden on small entities. The FCC states that the final rule allows additional time for low-power broadcasters to transition from analog to digital service compared to full-service broadcasters.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the FCC is not subject to the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On September 26, 2003, the FCC published a Notice of Proposed Rulemaking in the Federal Register. 68 Fed. Reg. 55566. In response, the FCC received 68 comments and 37 reply comments, which are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains an information collection that is subject to review and approval by the Office of Management and Budget under the Paperwork Reduction

Act. FCC has submitted the required information to OMB and the collection requirements will not become effective until approved.

#### Statutory authorization for the rule

The final rule is promulgated pursuant to the authority found in sections 1, 4(i) and (j), 5(c)(1), 7, 301, 302, 303(f), 303(r), 303(u), 303(w), 303(x), 307, 308, 309, 316, 319, 324, 336(c), 336(f), 337, 330(b), 330(c) and 332(c) of the Communications Act of 1934, 47 U.S.C. 151, 154(i) and 154(j), 155(c)(1), 157, 301, 302, 303(f), 303(r), 303(u), 303(w), 303(x), 307, 308, 309, 316, 319, 324, 336(c), 336(f), 337, 330(b), 330(c) and 332(c).

#### Executive Order No. 12866

As an independent regulatory agency, the FCC is not subject to the review requirements of the order.