

information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of the *Second Further Notice of Proposed Rule Making* in WT Docket No. 05-211, 71 FR 35594, June 21, 2006.

FOR FURTHER INFORMATION CONTACT: Brian Carter, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau at (202) 418-0660.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, DA 06-1617, released on August 10, 2006. The complete text of the *Order* is available for public inspection and copying from 8 a.m. to 4:30 p.m. Monday through Thursday or from 8 a.m. to 11:30 a.m. on Friday at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The *Order* and related Commission documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-488-5300, facsimile 202-488-5563, or you may contact BCPI at its Web site: <http://www.BCPIWEB.com>. When ordering documents from BCPI please provide the appropriate FCC document number, for example, DA 06-1617. The *Order* and related documents are also available on the Internet at the Commission's Web site: <http://wireless.fcc.gov/auctions>.

1. On July 25, 2006, a motion was filed with the Commission requesting an extension of time for submitting comments and reply comments in response to the *Second Further Notice of Proposed Rule Making* in WT Docket No. 05-211, 71 FR 35594, June 21, 2006. The *Second Further Notice of Proposed Rule Making* seeks public comment on a variety of measures to ensure that the recipients of designated entity benefits are limited to those entities and for those purposes Congress intended. Interested parties previously had until August 21, 2006, for filing comments and September 19, 2006, for filing reply comments.

2. It is the general policy of the Commission that extensions of time shall not be routinely granted. Nevertheless, the Commission finds that in this instance a limited extension of time will facilitate the development of a complete record in response to the *Second Further Notice of Proposed Rule Making*. The *Second Further Notice of Proposed Rule Making* seeks public comment on how to ensure that the recipients of designated entity benefits are limited to those entities and for those purposes Congress intended.

Thus, the comments provided by designated entities will be a vital part of the record. Designated entities include small businesses, some of whom have just finished preparing and filing applications to participate in Auction No. 66 and arranging financing for the necessary upfront payments. The Commission believes that providing additional time will facilitate comments in response to the *Second Further Notice of Proposed Rule Making* by designated entities participating in Auction No. 66. The Commission also finds that providing limited additional time will not unduly delay resolution of the proceeding. Accordingly, the Commission extends the deadlines for filing comments and reply comments in response to the *Second Further Notice of Proposed Rule Making* until September 20, 2006 and October 20, 2006, respectively.

3. Accordingly, *it is ordered* that, pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 154(j), and sections 0.131, 0.331, and 1.46 of the Commission's rules, 47 CFR 0.131, 0.331, and 1.46, the deadline for filing comments in response to the *Second Further Notice of Proposed Rule Making* is extended to September 20, 2006, and the deadline for filing reply comments is extended to October 20, 2006.

Federal Communications Commission.

Margaret Wiener,
Chief, Auction Spectrum and Access Division,
WTB.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[FCC 06-33]

Second Further Notice of Proposed Rule Making, In the Matter of Children's Television Obligations of Digital Television Broadcasters

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: On March 27, 2006 (71 FR 15145), the Commission published proposed rules in the *Second Further Notice* which sought public comment on a joint proposal filed by several broadcast and programming entities and children's television advocates proposing revisions to previously adopted requirements of television licensees and cable operators with respect to children's television

programming. The Commission inadvertently omitted the Initial Regulatory Flexibility Analysis, which was part of the item adopted by the Commission, in the **Federal Register** publication. This document corrects the **Federal Register** as it appeared.

DATES: Comments on the Initial Regulatory Flexibility Analysis only are due September 1, 2006. Reply comments are due September 8, 2006.

ADDRESSES: You may submit comments, identified by MM Docket No. 00-167, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Federal Communications Commission's Web site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

E-mail: ecfs@fcc.gov. Include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

Mail: Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Policy Division, Media Bureau, Federal Communications Commission, (202) 418-2154.

SUPPLEMENTARY INFORMATION: Following is the Initial Regulatory Flexibility Act analysis to be associated with the document proposing to amend parts 73 and 76 of the Commission's rules that was published in the **Federal Register** on March 27, 2006 (71 FR 15145).

Initial Regulatory Flexibility Analysis. As required by the Regulatory Flexibility Act of 1980, as amended (the "RFA"), the Commission has prepared this Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact of the policies and rules proposed in the *Second Further Notice of Proposed Rule Making* ("Notice") on a substantial number of small entities. Written public comments are requested on this IRFA

only. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments indicated on the first page of this document. The Commission has sent a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (“SBA”). In addition, the Notice has been published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules. Our goal in commencing this proceeding is to determine whether, and to what extent, the Commission should adopt proposed recommendations for modification of rules previously adopted by the Commission in the above-captioned proceeding. On September 9, 2004, the Commission adopted a Report and Order and Further Notice of Proposed Rule Making, 70 FR 25 (January 3, 2005) (“Order”) in this proceeding. The rules in the Order pertain to the obligation of television licensees to provide educational programming for children and the requirement that television licensees protect children from excessive and inappropriate commercial messages. Among other things, the Order adopted rules regarding the use of Web site addresses during children’s programming, revised the definition of commercial matter, placed a limit on the number of preemptions of core children’s programming, and created children’s programming requirements for those multicasting free video programming streams. In this proceeding, we will evaluate proposed modifications to these rules as presented in a Joint Proposal filed by representatives of broadcast and cable industries and public interest groups interested in children’s television. First, the Joint Proposal suggests modifications pertaining to the display of Web sites during core children’s programming. Second, the Joint Proposal recommends further revisions to the definition of commercial matter. Third, the Joint Proposal suggests that the Commission lift its numerical limits on children’s programming preemptions. Finally, the Joint Proposal recommends clarifications to the children’s programming requirements for those multicasting free video programming streams.

Legal Basis. The authority for the action proposed in this rulemaking is contained in Sections 4(i) & (j), 303, 307, 309 and 336 of the Communications Act of 1934 as amended, 47 U.S.C. 154(i) & (j), 303, 307, 309 and 336.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs agencies to provide a description

of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (“SBA”).

Television Broadcasting. The proposed rules and policies apply to television broadcast licensees, and potential licensees of television service. The SBA defines a television broadcast station as a small business if such station has no more than \$12 million in annual receipts. Business concerns included in this industry are those “primarily engaged in broadcasting images together with sound.” According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database (BIA) on October 18, 2005, about 873 of the 1,307 commercial television stations (or about 67 percent) have revenues of \$12 million or less and thus qualify as small entities under the SBA definition. We note, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which

they apply may be over-inclusive to this extent.

Cable and Other Program Distribution. The SBA has developed a small business size standard for cable and other program distribution services, which includes all such companies generating \$12.5 million or less in revenue annually. This category includes, among others, cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, subscription television services and open video systems. According to Census Bureau data for 1997, there were 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under \$10 million and an additional 52 firms had receipts of \$10 million or more but less than \$25 million. Consequently, the Commission estimates that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein.

Cable System Operators (Rate Regulation Standard). The Commission has developed its own small business size standard for cable system operators, for purposes of rate regulation. Under the Commission’s rules, a “small cable company” is one serving fewer than 400,000 subscribers nationwide. The most recent estimates indicate that there were 1,439 cable operators who qualified as small cable system operators at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, the Commission estimates that there are now fewer than 1,439 small entity cable system operators that may be affected by the rules and policies adopted herein.

Cable System Operators (Telecom Act Standard). The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.” The Commission has determined that there are 67,700,000 subscribers in the United States. Therefore, an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do

not exceed \$250 million in the aggregate. Based on available data, the Commission estimates that the number of cable operators serving 677,000 subscribers or fewer, totals 1,450. The Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million, and therefore is unable, at this time, to estimate more accurately the number of cable system operators that would qualify as small cable operators under the size standard contained in the Communications Act of 1934.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements. While the Joint Proposal proposes certain changes to the reporting requirements, we do not expect these changes to impose significant additional reporting or recordkeeping requirements. We expect the requirements to be the same for large and small entities. We seek comment on whether others perceive a need for less extensive recordkeeping or compliance requirements for small entities.

Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof,

for such small entities.” The proposals in the Notice, as discussed in Section A, would apply equally to large and small entities and may diminish the economic impact of the regulations on all entities. For example, the change proposing that the Commission lift its numerical limits on children’s programming preemptions would, if adopted, provide programmers greater flexibility in the scheduling of children’s programming. In addition, the proposed modifications pertaining to the display of websites during core children’s programming would, if adopted, provide greater flexibility in the regulations pertaining to commercial matter. We welcome comment on modifications of the proposals if such modifications might assist small entities and especially if such are based on evidence of potential differential impact of the regulations. Specifically, we welcome comment as to whether or not small entities would like the Commission to adopt the provisions of the Joint Proposal, adopt different modifications to the rules, or enforce the existing rules.

Federal Rules that May Duplicate, Overlap, or Conflict With the Commission’s Proposals. None.

Comment Information. Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission’s Electronic Comment Filing System (ECFS), (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies. Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting

comments. Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission. The Commission’s contractor will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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